Ministry of Foreign Affairs of the Netherlands

IOB Evaluation

The Netherlands and the European Development Fund - Principles and practices

Evaluation of Dutch involvement in EU development cooperation (1998-2012) - *Digital annexes 5 to 12*

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	General		Transport infrastructure							Agricultural and rural development					Health						Education						Water and sanitation						Governance				Budget support			Contribution to MDGs			
	CSP is aligned with national priorities and policies	Interventions addressed the cross-cutting themes	Sector policy reforms in road sector	Results of interventions related to institutional capacity constraints	No of kms of roads constructed or rehabilitated	No of kms of rural/ feeder roads constructed or rehabilitated	Attention is paid to road maintenance	Funding for road maintenance	Improved road infrastructure serves needs of the poor	Agricultural sector policy reforms	Results of interventions to address agricultural sector institutional capacity constraints	Increase in production/productivity among small holder farmers	Changes in environmental management practices	Availability of funding for operation and maintenance of agricultural services	Health sector policy reforms	Results of interventions to address health sector institutional capacity constraints	Increase in quantitative availability of services	Increase in quality of health services offered	Increased use of health services by the poor (m/f)	Funding for operation and maintenance of health infrastructure	Education sector policy reforms	Results of interventions to address education sector institutional capacity constraints	Evaluation finds a satisfactory increase in quantitative availability of services	Increase in quality of services offered	Increase in enrollment and completion rates (m/f)	Improved education infrastructure and services serve needs of the poor	Funding for operation and maintenance of education infrastructure	Water and sanitation sector policy reforms	Results of interventions to address institutional capacity constraints in water and sanitation sector	Expansion of water and sanitation infrastructure	Established water and sanitation infrastructure serves the poor	Funding for operation and maintenance of water and sanitation infrastructure	Needed strengthening of judicial sector is addressed	Attention paid to increasing public accountability and transparency	Concern on human rights issues is addressed	CSO participation is addressed	Adequacy of PFM	Increase in pro-poor Government spending	Increase in service delivery in key sectors	Impact on reduction of poverty incidence	Impact on reduction of food insecurity incidence	Impact on literacy rates	Reduction in incidence of poverty related diseases
Angola 2009	S	NS										S			NS	NS	S	S				NS	NS	S	NS	NS		S	NS	S	NS	NS	NS	NS		S					S	S	NS
Benin 2005	S	NS	NS	NS	S		S	NS									S	NS	NS																NS	NS	NS	NS	S				
Botswana 2009	NS																				NS		S	NS	S	S										NS			NS				
Burkina Faso 2010	S	S	NS	NS	S		S	NS		S	NS	S				NS	NS					NS			NS			S	S	S	S	NS	NS	S	NS		NS	S	NS	NS	NS		NS
Central African Republic 2009	NS	NS		S	NS	S	S	NS								NS	NS		NS	NS																	NS		NS	NS			NS
Comoros 2006	S	NS		NS	NS	NS	NS				NS	S	NS	NS			S					NS	S		NS		NS	NS		S		NS				S							
Chad 2009	S	NS	S	NS	S		S	NS	S						S	S	S		NS	NS									S	S		NS	S	NS	S	NS	NS		NS				NS
Congo 2012	S	S	S	NS			NS	NS					S			S																	NS	NS	NS	NS				NS			NS
Djibouti 2012	NS	NS	NS	NS	NS		NS	NS	NS																			S	NS	NS	NS	NS		NS	NS					NS	S		NS
Dominican Rep 2011	S	S																			S	NS	S	NS	NS	NS	S									S	NS	NS		NS	NS	NS	NS
Ethiopia 2012	NS		S	S	S	NS	NS	NS	S	S			S			S	S	NS					S	NS	S									NS	NS	NS		S	S	S	S		S
Ghana 2005	S	S	NS			NS	NS	NS	S			NS			S	S	S		NS		S	S	S		S	S				S	S						S	NS					NS
Guyana 2008	S	NS													S																					NS	NS						
Lesotho 2004	NS	NS	S	NS	S	S	NS	NS								NS																NS	NS	NS	NS	NS	NS	NS			NS		
Liberia 2010	S	NS			NS	NS	NS	NS	S		NS	NS		NS		NS	S			NS		NS	NS		NS	NS			NS	NS				S							NS		
Malawi 2011	S	NS	S	NS	S	S	S	NS			NS	S	S	NS		NS																	NS	S		NS	S	S	NS		S		
Mali 2006	S	S		NS	S	NS	NS	NS	NS	S	S	S	NS		S	NS	S	NS	NS	NS				NS	NS									NS			S		S	NS	S		
Mali 2011															S	NS	S		S				S		S	NS								S			NS	S	S	S			S
Mauritius 2006	S	NS									S	S	S	NS														S	NS	S		NS				S			S				
Mozambique 2007	S	NS		NS	S	NS	S	NS			S	NS				NS	S																NS		NS	NS	S	S	S	S	S		NS
Namibia 2009	S	NS		NS		NS					NS										NS	NS							S	S						NS				NS			NS
Niger 2010	S		S			NS	NS	NS	S	S	NS	NS			S	S						NS	S	NS	S	NS			NS	S		NS					NS			NS		NS	NS
Nigeria 2010	S														S	NS	S			NS								S	NS	NS				S		S							
Rwanda 2006	NS	NS	S	NS	S		S	NS		S	S		NS				S		S						NS								S	NS	NS	NS	S	NS	S				
Senegal 2010	S	NS	NS	NS	S	NS	S	NS																						S	S	NS		NS		S	NS	NS	NS	NS			
Seychelles 2006	NS	NS																												S													
Tanzania 2006	S	S	S		S	S	S	NS	S		S	S		S							S	NS	S	NS	S	S								NS		S	NS	S		S			
Uganda 2009	S	S	S	NS	S		S	NS	NS	S	NS	NS	NS				S	NS	S	NS			S	NS		S	NS							NS	S	S	S	S		NS	S	NS	S

Legenda

S	Satisfactory	NS	Not satisfactory		Not covered or not applicable

[1] The reports concerned are the following : DRN Consortium (2006), ECO Consult Consortium (2009a), (2009b), (2009c), (2009d), (2009e), (2009f), (2010a), (2010b), (2010c), (2010d), (2010e), (2011a), (2011b), (2011c), EGEVAL – Euréval (2006), EGEVAL (2005a), (2005b), (2006a), (2006b), (2006c), (2006d), (2007), (2008).

Annex 6: EU Treaties on aid

Introduction

The EU is based on a series of treaties, starting with the Treaty establishing the European Economic Community (EEC) that was signed in Rome in 1957. There have been five subsequent treaties - the Single European Act (1986), the Treaty of Maastricht (1992), the Treaty of Amsterdam (1997), the Treaty of Nice (2001) and the Treaty of Lisbon (2007). The following paragraphs elaborate on the position of development aid in these treaties. The Annex is concluded with a comparison of the aid related articles of the treaties.

Treaty of Rome - Treaty establishing the European Economic Community (1957)

The legal basis for EU development aid and EDF is to be found in the Treaty establishing the European Economic Community that was signed on 25 March 1957 in Rome signed by Belgium, Germany, France, Italy, Luxemburg and the Netherlands and ratified by the Netherlands on 5 December 1957. The Treaty includes in its Preamble the statement that the Community intends 'to confirm the solidarity which binds Europe and the overseas countries and desiring to ensure the development of their prosperity, in accordance with the principles of the Charter of the United Nations'. Article 3, amongst others, stipulates that Community activities under the Treaty will include 'the association of the overseas countries and territories in order to increase trade and to promote jointly economic and social development' (point (k)).

More specifically, Article 131 of the Treaty reads as: 'The Member States agree to associate with the Community the non-European countries and territories which have special relations with Belgium, France, Italy and the Netherlands', thus including Papua New Guinea.[1] It highlights that the purpose of the association 'shall be to promote the economic and social development of the countries and territories and to establish close economic relations between them and the Community as a whole' (Article 131). The association shall 'serve primarily to further the interests and prosperity of the inhabitants of these countries and territories in order to lead them to the economic, social and cultural development to which they aspire' (Article 131).

Apart from touching upon the issues of trade between Member States and these countries and territories and the right of establishment of national, companies or firms, Article 132 states that '(the) Member States shall contribute to the investments required for the progressive development of these countries and territories' (Article 132.3) – this provides the origins for what is now called the European Development Fund. According to Article 136, for an initial period of five years, 'the details of and procedure for the association of the countries and territories with the Community shall be determined by an Implementing Convention' that is annexed to the Treaty. Extension of the Convention for a further period is to be agreed upon by the Council 'acting unanimously'.

The Implementing Convention on the Association of the Overseas Countries and Territories with the Community provides the provisions that the signatories to the Rome Treaty had agreed upon. The Convention announces the establishment of 'a Development Fund for the Overseas Countries and Territories' for the promotion of social and economic development of these countries and territories, thereby 'supplementing the efforts made by the authorities responsible' (Article 1). Article 1 moreover states that the Member States 'shall, over a period of five years', pay an annual contribution for the Fund, which is to be administered by the Commission.[2] Further details of the Convention are provided below.

[1] According to Annex IV, the countries and territories were: 'French West Africa (Senegal, French Sudan, French Guinea, Ivory Coast, Dahomey, Mauritania, Niger and Upper Volta), French Equatorial Africa (Middle Congo, Ubangi-Shari, Chad and Gabon), Saint Pierre and Miquelon, the Comoro Archipelago, Madagascar and dependencies, French Somaliland, New Caledonia and dependencies, French settlements in Oceania, Southern and Antarctic Territories, the Autonomous Republic of Togoland, the trust territory of the Cameroons under French administration, the Belgian Congo and Ruanda-Urundi, the trust territory of Somaliland under Italian administration and Netherlands New Guinea'.
[2] Over the 5-year period, Belgium was to pay (in millions of EPU units of account) 70, Germany and France 200 each, Italy 40, Luxemburg 1.25 and the Netherlands 70 (Annex A to the Convention).

Article 2 of the Convention stipulates that responsible authorities are expected to submit social or economic projects to the Commission for which Community funding is requested. Article 3 indicates that the Commission 'shall draw up annually general programmes for allocation to the different classes of project of funds made available'. These general programmes 'shall contain projects for financing' in '(a) certain social institutions' and '(b) economic investments which are in the public interest and are directly connected with the implementation of a programme containing specific productive development projects'. The Council, 'acting by a qualified majority after consulting the Commission' shall determine what funds will be devoted to these two areas, thereby aiming 'at a rational geographical distribution of the funds made available' (Article 4).

Article 5 provides further details on the role of the Commission with respect to social and economic investment projects and specifies that it will submit proposals to the Council, which 'shall act by a qualified majority within two months' (Article 5.2). Funds would be made available to the authorities 'responsible for carrying out the work concerned', whereby the Commission was to ensure 'that such funds are used for the purposes which have been decided upon and are expended to the best economic advantage' (Article 5.4). Moreover, unused funds from any one year could be carried forward (Article 5.3) while rules for the collection and transfer of financial contributions remained to be agreed upon (Article 6).

Article 8 concerns the right of establishment, which shall, 'in each country or territory, be progressively extended to nationals, companies or firms of Member States other than the State which had special relations with the country or territory concerned'. Articles 9 to 15 concern provisions related to customs duties and trade (import quotas, tariffs to be applied, and special provisions concerning raw coffee (Italy, Benelux) and bananas (Germany)).

Maastricht Treaty - Treaty on European Union (1992)

The Treaty on European Union was signed on 7 February 1992 by the ministers of foreign affairs and the ministers of Finance from the Member States. The Netherlands ratified the Treaty on 28 December 1992. It went into force on 1 November 1993. The Treaty created the *European Union*, consisting of three pillars: the European Communities, a Common Foreign and Security Policy, and police and judicial cooperation in criminal matters.

With the Treaty, development cooperation was to become part and parcel of the Union's common foreign and security policy.[3] According to Santiso (2002), with the Treaty, Member States have 'locked in' their commitment to further European integration by bounding themselves by treaty to develop a common development assistance policy. However, they have kept alongside EC aid their own bilateral aid programs, with different political objectives and diverging strategic approaches..'.

According to the new Article 2 of the Maastricht Treaty, '(the) Community shall have as its task, by establishing a common market and an economic and monetary union and by implementing the common policies or activities referred to in Articles 3 and 3a, to promote throughout the Community a harmonious and balanced development of economic activities, sustainable and non-inflationary growth respecting the environment, a high degree of convergence of economic performance, a high level of employment and of social protection, the raising of the standard of living and quality of life, and economic and social cohesion and solidarity among Member States'. To achieve these purposes, the new Article 3 specifies that Community activities shall include, amongst others, '(q) a policy in the sphere of development cooperation;

[3] It is furthermore worth recalling that with the adoption of the Maastricht Treaty, external policies have been formulated and managed under two separate institutional processes: (i) the inter-governmental Common Foreign and Security Policy, which includes a Common Security and Defence Policy (CSDP). In this case, 'the 27 member state governments, acting on the basis of unanimous agreement in the European Council (the heads of state or government) and the Council of the European Union (also called the Council of Ministers), are the key actors' and (ii) external policies in areas such as trade, foreign aid, and EU enlargement, which 'are shaped and executed under a supranational or 'community' decision-making process' involving the European Commission as the most significant actor, 'although the member states (represented in the European Council and the Council of Ministers) and the European Parliament also have important decision-making roles' (Mix (2011)).

(r) the association of the overseas countries and territories in order to increase trade and promote jointly economic and social development'.

Further details on EU development cooperation are provided in the Articles 130u to 130y and the 'Declaration on the European Development Fund' stating that '(the) Conference agrees that the European Development Fund will continue to be financed by national contributions in accordance with the current provisions'.

According to Article 130u, EU development cooperation, 'which shall be complementary to the policies pursued by the Member States',[4] shall foster: 'the sustainable economic and social development of the developing countries, and more particularly the most disadvantaged among them; the smooth and gradual integration of the developing countries into the world economy; the campaign against poverty in the developing countries' (Article 130u.1). EU development policy 'shall contribute to the general objective of developing and consolidating democracy and the rule of law, and to that of respecting human rights and fundamental freedoms' (Article 130u.2) and both Community and Member States 'shall comply with the commitments and take account of the objectives they have approved in the context of the United Nations and other competent international organizations' (Article 130u.3). Moreover, the aims of Article 130u.1 shall be taken into account in the policies that the Community implements 'which are likely to affect development countries' (Article 130v – i.e. *coherence avant la lettre*).

According to Article 130w, the Council, 'shall adopt the measures necessary to further the objectives referred to in Article 130u. Such measures may take the form of multiannual programmes' (Article 130w.1) with the European Investment Bank contributing to these measures (Article 130w.2). However, the provisions of Article 130w were not to 'affect cooperation with the African, Caribbean and Pacific countries in the framework of the ACP-EEC Convention' (Article 130w.3).

Article 130y finally states: 'Within their respective spheres of competence, the Community and the Member States shall cooperate with third countries and with the competent international organizations. The arrangements for Community cooperation may be the subject of agreements between the Community and the third parties concerned, which shall be negotiated and concluded in accordance with Article 228. The previous paragraph shall be without prejudice to Member States' competence to negotiate in international bodies and to conclude international agreements.' According Loquai et al (1998), this increased 'the influence of the European Commission on the Community's development cooperation', giving it a global mandate for development cooperation' and 'the right to draft proposals for the Community's campaign against poverty'.

Treaty of Amsterdam (1997)

The Treaty of Amsterdam was signed on 2 October 1997 and ratified by the Netherlands on 24 December 1998. It went into force on 1 May 1999. One of the main purposes of the inter-Governmental Conference which led to the signature of the draft Amsterdam Treaty was to make Common Foreign and Security Policy more effective and to equip the Union better for its role in international politics.[5] This Policy is governed by the provisions of Title V of the Treaty on European Union. It is also addressed in Article 2 (ex Article B of the TEU) of the Common Provisions, which states that one of the objectives of the Union is to 'assert its identity on the international scene, in particular through the implementation of a common foreign and security policy, including the eventual framing of a common defence policy, which might in time lead to a common defence'. Title XX of the Treaty concerns development cooperation and incorporates a series of earlier development cooperation articles. The new Article 177, concerning the aims

[4] On this issue, Article 130x states specifically the following: '1. The Community and the Member States shall coordinate their policies on development cooperation and shall consult each other on their aid programmes, including in international organizations and during international conferences. They may undertake joint action. Member States shall contribute if necessary to the implementation of Community aid programmes. 2. The Commission may take any useful initiative to promote the coordination referred to in paragraph 1'.

[5] The Treaty furthermore identified four main instruments of the Common Foreign and Security Policy: *Principles and Guidelines*, which provide general political direction; *Common Strategies*, which set out objectives and means; *Joint Actions*, which address specific situations; and *Common Positions*, which define an approach to a particular matter.

and position of EU development aid vis-à-vis the aid of Member States, is identical to Article 130u.1-3 of the Maastricht Treaty quoted above. The same is true for the Articles 178-181, which are similar to the former Articles 130v to 130y.

Treaty of Nice (2001)

The Treaty of Nice was signed on 26 February 2001. The Netherlands ratified the Treaty on 31 December 2001. It went into force on 1 February 2003. Article 2 provides the task of the European Community, i.e.: 'by establishing a common market and an economic and monetary union and by implementing common policies or activities referred to in Articles 3 and 4, to promote throughout the Community a harmonious, balanced and sustainable development of economic activities, a high level of employment and of social protection, equality between men and women, sustainable and non-inflationary growth, a high degree of competitiveness and convergence of economic performance, a high level of protection and improvement of the quality of the environment, the raising of the standard of living and quality of life, and economic and social cohesion and solidarity among Member States'.

The Treaty of Nice includes a series of 'substantive amendments' to the TEU. Of particular relevance is the new Article 17 on the EU's common foreign and security policy, which 'shall include all questions relating to the security of the Union, including the progressive framing of a common defence policy, which might lead to a common defence, should the European Council so decide. It shall in that case recommend to the Member States the adoption of such a decision in accordance with their respective constitutional requirements. The policy of the Union in accordance with this Article shall not prejudice the specific character of the security and defence policy of certain Member States and shall respect the obligations of certain Member States, which see their common defence realised in the North Atlantic Treaty Organisation (NATO), under the North Atlantic Treaty and be compatible with the common security and defence policy established within that framework'.[6] Enhanced cooperation in security and defence 'shall be aimed at safeguarding the values and serving the interests of the Union as a whole by asserting its identity as a coherent force on the international scene' (Article 27a). Moreover, according to Article 17.2 '(questions) referred to in this Article shall include humanitarian and rescue tasks, peacekeeping tasks and tasks of combat forces in crisis management, including peace-making'.

The Treaty of Nice also included amendments of the TEC of 1957. At the same time, it highlights once more the intention to 'confirm the solidarity which binds Europe and the overseas countries and desiring to ensure the development of their prosperity, in accordance with the principles of the Charter of the United Nations'.

Related to development cooperation, tasks of the Community relate to 'a policy in the sphere of development cooperation' and 'the association of the overseas countries and territories in order to increase trade and promote jointly economic and social development' (Article 3.r and 3.s).
Article 177 defines that Community development policy, 'which shall be complementary to the policies pursued by the Member States' (Article 177.1), 'shall foster: - the sustainable economic and social development of the developing countries, and more particularly the most disadvantaged among them, - the smooth and gradual integration of the developing countries into the world economy, - the campaign against poverty in the developing countries'. Community development policy shall moreover 'contribute to the general objective of developing and consolidating democracy and the rule of law, and to that of respecting human rights and fundamental freedoms' (Article 177.2). Both Community and Member States will moreover 'comply with the commitments and take account of the objectives they have approved in the context of the United Nations and other competent international organisations' (Article 177.3).

The coherence Article 178 is similar to Article 130v of the Maastricht Treaty. Article 179 concerns measures to be adopted by the Council to further the above objectives, which 'may take the form of multiannual programmes' (Article 179.1), with the EIB contributing to such measures 'under the terms laid down in its

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[6] A new Article 25 concerns the role of the Political and Security Committee, which 'shall monitor the international situation in the areas covered by the common foreign and security policy and contribute to the definition of policies by delivering opinions to the Council at the request of the Council or on its own initiative. It shall also monitor the implementation of agreed policies, without prejudice to the responsibility of the Presidency and the Commission'.

Statute' (Article 179.2). Once more, it is stated that '(the) provisions of this Article shall not affect cooperation with the African, Caribbean and Pacific countries in the framework of the ACP-EC Convention'. Article 180 concerns coordination between Community and Member States; in this respect the Commission 'may take any useful initiative' to promote this coordination'.

With the entry into force of the Treaty in 2003, there was for the first time a 'satisfactory legal basis for the human rights clause' that had been become 'a familiar feature of EU external agreements'.

Treaty of Lisbon (2007)

The Treaty of Lisbon was signed on 13 December 2007 and ratified by the Netherlands on 11 September 2008. It went into force on 1 December 2009.

Article 2 C of the Treaty stipulates that '(in) the areas of development cooperation and humanitarian aid, the Union shall have competence to carry out activities and conduct a common policy; however, the exercise of that competence shall not result in Member States being prevented from exercising theirs' (2C.4).[7]

Paragraphs 1 and 2 of Article 177 of the earlier Treaty of Amsterdam were amended by a new Article 188 D stating that '1. Union policy in the field of development cooperation shall be conducted within the framework of the principles and objectives of the Union's external action. The Union's development cooperation policy and that of the Member States complement and reinforce each other. Union development cooperation policy shall have as its primary objective the reduction and, in the long term, the eradication of poverty. The Union shall take account of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries'. Likewise, Article 188 E was incorporated, amending paragraph 1 of Article 179 as follows: '1.The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt the measures necessary for the implementation of development cooperation policy, which may relate to multiannual cooperation programmes with developing countries or programmes with a thematic approach'.

A new paragraph was furthermore added: '2. The Union may conclude with third countries and competent international organisations any agreement helping to achieve the objectives referred to in Article 10 A of the Treaty on European Union and in Article 188 D of this Treaty. The first subparagraph shall be without prejudice to Member States' competence to negotiate in international bodies and to conclude agreements.'

Article 180 was amended by Article 188 F, incorporating at the beginning of paragraph 1: 'In order to promote the complementarity and efficiency of their action,..'. Finally Article 188 G replaced Article 181, whereby the second sentence of the first paragraph and the second paragraph were deleted.
A key element of the Treaty was the creation of the new position of High Representative of the Union for Foreign Affairs and Security Policy cum Vice President of the European Commission (HRPV), and the entourage that has come with this position: the External European Action Service (EEAS). The HRVP position combines the earlier posts of the High Representative for the Common Foreign and Security

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[7] On the issue of coordination between Commission and Member States in development cooperation, the advice of the Dutch Interdepartementale Commissie Europees Recht (ICER) of 16 March 2010, states that development aid is among the areas in which *'de lidstaten altijd bevoegd blijven maatregelen vast te stellen, ook als de Unie maatregelen vaststelt' (artikel 4, leden 3 en 4, VWEU); Het blijft mogelijk, net als voorheen, praktische arrangementen te treffen voor coördinatie 'on the spot' over de verdeling van de verantwoordelijkheden tussen de Commissie en de lidstaten, of hun vertegenwoordiger(s). Deze aanpak is flexibel, maar biedt geen waarborg voor de uitkomsten ervan. Het Verdrag van Lissabon bevat voor coördinatie 'on the spot' alleen een bijzondere bepaling voor GBVB-onderwerpen. De Hoge Vertegenwoordiger organiseert de coördinatie (artikel 34 lid 1, VEU). Het Verdrag van Lissabon bevat echter geen bijzondere bepaling voor de organisatie van het coördinatie-overleg 'on the spot' als het gaat om niet-GBVB-onderwerpen. De verdragen bevatten geen verplichting tot aanpassing van de bestaande arrangementen, waarin het Voorzitterschap van de Raad meestal de coördinatie organiseert. Wanneer de lidstaten dat wensen kan deze organisatie in handen worden gelegd van de EU-delegatie ter plaatse'*(ICER. (2010)).

Policy, the foreign minister of the rotating Presidency country, and the Commissioner for External Relations.[8]

The Treaty on the Functioning of the European Union

The Treaty of Lisbon introduced a consolidated version of the Treaty on European Union and the Treaty on the Functioning of the European Union (the former TEC). In its preamble, the Treaty reconfirms the importance attached to the relation between the EU and 'overseas countries': 'Intending to confirm the solidarity which binds Europe and the overseas countries and desiring to ensure the development of their prosperity, in accordance with the principles of the Charter of the United Nations'.[9]

Article 4.4 stipulates that in the areas of development cooperation and humanitarian aid, 'the Union shall have competence to carry out activities and conduct a common policy; however, the exercise of that competence shall not result in Member States being prevented from exercising theirs'.
According to Article 208, 'Union development cooperation policy shall have as its primary objective the reduction and, in the long term, the eradication of poverty. The Union shall take account of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries'. Article 208.1 furthermore articulates that 'Union policy in the field of development cooperation shall be conducted within the framework of the principles and objectives of the Union's external action. The Union's development cooperation policy and that of the Member States complement and reinforce each other'. On the relationship between Union and Member States' policies, Article 210.1 stipulates that to 'promote the complementarity and efficiency of their action, the Union and the Member States shall coordinate their policies on development cooperation and shall consult each other on their aid programmes, including in international organisations and during international conferences. They may undertake joint action. Member States shall contribute if necessary to the implementation of Union aid programmes' while the Commission may 'take any useful initiative to promote the coordination referred to in paragraph 1'.

In line with earlier treaties, the Treaty specifies that European Parliament and Council, 'acting in accordance with the ordinary legislative procedure, shall adopt the measures necessary for the implementation of development cooperation policy, which may relate to multiannual cooperation programmes with developing countries or programmes with a thematic approach' (Article 209.1). Under the terms of its Statute, the EIB is expected to contribute to these measures (Article 209.3).

Finally, Article 211 states that 'Within their respective spheres of competence, the Union and the Member States shall cooperate with third countries and with the competent international organisations'.

Comparison of development aid in different treaties

1992; 1997	2007
Article 130u (1992); Article 177 (1997)	**Article 188 D**
1. Community policy in the sphere of development cooperation, which shall be complementary to the policies pursued by the Member States, shall foster: - the sustainable economic and social development of the developing countries, and more particularly the most disadvantaged among them; - the smooth and gradual integration of the developing countries into the world economy; - the campaign against poverty in the developing countries. 2. Community policy in this area shall contribute to the general objective of developing and consolidating democracy and the rule of law, and to	'1. Union policy in the field of development cooperation shall be conducted within the framework of the principles and objectives of the Union's external action. The Union's development cooperation policy and that of the Member States complement and reinforce each other. Union development cooperation policy shall have as its primary objective the reduction and, in the long term, the eradication of poverty. The Union shall take account of the objectives of development cooperation in the policies that it implements which are likely to affect developing

[8] 'As such, the new High Representative position seeks to be an institutional bridge linking together and coordinating the intergovernmental and 'community' dimensions of EU external policy'(Mix (2011)). The Lisbon Treaty also created a new 'permanent' President of the European Council.
[9] The link with the UN is also underlined in Article 208.2: 'The Union and the Member States shall comply with the commitments and take account of the objectives they have approved in the context of the United Nations and other competent international organisations'.

1992; 1997	2007
that of respecting human rights and fundamental freedoms. 3. The Community and the Member States shall comply with the commitments and take account of the objectives they have approved in the context of the United Nations and other competent international organizations. **Article 130v (1992); Article 178 (1997)** The Community shall take account of the objectives referred to in Article 130u in the policies that it implements which are likely to affect developing countries.	countries.
Article 130w (1992); Article 179 (1997) 1. Without prejudice to the other provisions of this Treaty the Council, acting in accordance with the procedure referred to in Article 189c, shall adopt the measures necessary to further the objectives referred to in Article 130u. Such measures may take the form of multiannual programmes. 2. The European Investment Bank shall contribute, under the terms laid down in its Statute, to the implementation of the measures referred to in paragraph 1. 3. The provisions of this Article shall not affect cooperation with the African, Caribbean and Pacific countries in the framework of the ACP-EEC Convention. **Article 130x (1992); Article 180 (1997)** 1. The Community and the Member States shall coordinate their policies on development cooperation and shall consult each other on their aid programmes, including in international organizations and during international conferences. They may undertake joint action. Member States shall contribute if necessary to the implementation of Community aid programmes. 2. The Commission may take any useful initiative to promote the coordination referred to in paragraph 1.	**Article 188 E** 1. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt the measures necessary for the implementation of development cooperation policy, which may relate to multiannual cooperation programmes with developing countries or programmes with a thematic approach. 2. The Union may conclude with third countries and competent international organisations any agreement helping to achieve the objectives referred to in Article 10 A of the Treaty on European Union and in Article 188 D of this Treaty. The first subparagraph shall be without prejudice to Member States' competence to negotiate in international bodies and to conclude agreements. **Article 188 F** In order to promote the complementarity and efficiency of their action, the Community and the Member States shall coordinate their policies on development cooperation and shall consult each other on their aid programmes, including in international organisations and during international conferences. They may undertake joint action. Member States shall contribute if necessary to the implementation of Community aid programmes.
Article 130y (1992); Article 181 (1997) Within their respective spheres of competence, the Community and the Member States shall cooperate with third countries and with the competent international organizations. The arrangements for Community cooperation may be the subject of agreements between the Community and the third parties concerned, which shall be negotiated and concluded in accordance with Article 228. The previous paragraph shall be without prejudice to Member States' competence to negotiate in international bodies and to conclude international agreements.’	**Article 188 G** Within their respective spheres of competence, the Community and the Member States shall cooperate with third countries and with the competent international organisations.

Annex 7: Other EDF instruments

The EDF Investment Facility

With the Cotonou Agreement, an Investment Facility was established that is financed from the European Development Fund (EDF) and managed by the European Investment Bank. The Facility is to contribute to the key objective of poverty reduction in the ACP countries and, as stated in 2006, to the inclusion of the ACP economies in the world economy (European Investment Bank (2007a)). According to the Cotonou Agreement, it 'shall operate in all economic sectors and support investments of private and commercially run public sector entities, including revenue generating economic and technological infrastructure critical for the private sector'. The Facility reflects the importance attached by the Union to the role of the private sector in economic growth and development, contrary to the earlier days when investment support primarily focused on public investment in the productive sector.

In order for it to be sustainable, the Member States decided to create the Facility 'as a revolving fund, operating on market-related terms in which the returns to the fund would be reinvested in the ACP economies' (European Investment Bank (2004c). This represented a break with the past approach that was based on concessional funding, and particularly on subsidised interest rates.' This approach was considered 'inconsistent, if applied to the private sector, with the need for market discipline, and could adversely affect the growth of domestic financial sectors in the ACP countries'.[1]

The size of the Facility for ACP countries[2] was set with the first Financial Protocol at EUR 2.2 billion (subsequently reduced to EUR 2.037 billion) for the period 2003-2007, complementing EUR 1.7 billion from EIB's own resources. A second protocol was signed in June 2006[3] for the period 2008-2013 and provided for an additional EUR 1.1 billion from the Investment Facility, EUR 400 million for interest rate subsidies[4] and technical assistance and EUR 2 billion from the Bank's own resources.

[1] European Investment Bank (2004c). The revised Cotonou Agreement of 2005 furthermore determines that Facility operations 'shall be on market-related terms and conditions and shall avoid creating distortions on local markets and displacing private sources of finance; support the ACP financial sector and have a catalytic effect by encouraging the mobilisation of long-term local resources and attracting foreign private investors and lenders to projects in the ACP States; bear part of the risk of the projects it funds, its financial sustainability being ensured through the portfolio as a whole and not from individual interventions; and seek to channel funds through ACP national and regional institutions and programmes that promote the development of small- and medium-sized enterprises (SMEs)' (European Investment Bank (2005c)). According to EIB, the revised Cotonou Agreement 'introduced greater flexibility in the financing of public sector (mainly infrastructure) projects in HIPC or other countries pursuing economic adjustment' (European Investment Bank (2006c)) and broadened the scope for interest subsidies allowing the Facility 'to offer terms that are sufficiently concessional whenever required, especially in countries subject to restrictive borrowing conditions' (European Investment Bank (2006c)).

[2] The Republic of South Africa is a signatory to the Cotonou Agreement but does not participate in the Investment Facility. Cuba also does not participate in the Facility. There was a separate EUR 20 million OCT Investment Facility for the period 2003-2007 that was supplemented by EUR 30 million from EIB's own resources. For the period 2008-2013, the OCT Investment Facility equals EUR 30 million.

[3] Council (2006n). ACP-EC Partnership Agreement. Brussels, 30 June. Decision No 1/2006 of the ACP-EC Council of Ministers of 2 June 2006 specifying the multi-annual financial framework for the period 2008-2013 and modifying the revised ACP-EC Partnership Agreement: (c) EUR 1 500 million to finance the Investment Facility in accordance with the terms and conditions set out in Annex II ('Terms and conditions of financing') to this Agreement, comprising an additional contribution of EUR 1,100 million to the resources of the Investment Facility, managed as a revolving fund, and EUR 400 million under the form of grants for the financing of the interest-rate subsidies provided for in Articles 2 and 4 of that Annex over the period of the 10th EDF'.

[4] Out of this EUR 400 million, '(in) view of the phasing-out of the EU-ACP sugar protocol, up to EUR 100 million 'can be allocated to assist ACP sugar producers in adapting to changing world market conditions' (European Investment Bank (2009d)).

Table A.7.1: Overview of EU Member State contributions to the Investment Facility, 2003-2010 (EUR thousand)

	Facility	Interest subsidies	Total	Share
Austria	133.993	28.319	162.312	2,6%
Belgium	198.207	41.893	240.100	3,9%
Denmark	108.205	22.870	131.075	2,1%
Finland	74.835	15.817	90.652	1,5%
France	1.228.684	259.691	1.488.375	24,3%
Germany	1.181.155	249.645	1.430.800	23,4%
Greece	63.203	13.360	76.563	1,3%
Ireland	31.349	6.626	37.975	0,6%
Italy	634.061	134.014	768.075	12,5%
Luxembourg	14.663	3.100	17.763	0,3%
Netherlands	263.939	55.786	319.725	5,2%
Portugal	49.045	10.368	59.413	1,0%
Spain	295.288	62.412	357.700	5,8%
Sweden	138.038	29.174	167.212	2,7%
UK	641.644	135.616	777.260	12,7%
Total	**5.056.309**	**1.068.691**	**6.125.000**	

Funding for the Facility is provided by the Member States as part of their contribution to the EDF. During the period 2003-2010, these contributions these equal EUR 6.125 billion of which EUR 5.056 billion for the Investment Facility and, since 2005, EUR 1.068 billion as support for interest subsidies (see Table A.7.1). The Netherlands contribution was over EUR 319 million (5.2%) during this period.

In terms of management, an Investment Facility Committee was set-up, comprising representatives of the Member States and the Commission, acting by qualified majority and with procedures set by the Council (Council (2007j)). The Netherlands is represented by the Ministry of Finance. Council Regulation (EC) No 617/2007 determines the role of the Committee in terms of approvals and opinions,' the roles of the Commission and EIB in monitoring, evaluation and reporting, as well as exchanges with other Commission institutions and EDF Committee, as well as annual reporting requirements.

The Investment Facility started operations in June 2003. It makes available medium to long-term capital in the form of loans and flexible risk-bearing instruments and, in particular cases, interest rate subsidies. These mainly serve private sector operations but also commercially run public sector infrastructure projects. In specific cases, loans may be granted on concessional terms, notably for projects with an important environmental or social component, as well as projects located in HIPC countries or in areas that have suffered from conflicts or natural disasters. Table A.7.2 provides an overview of the different types of loans provided in the period 2004-2010.

Table A.7.2: Types of loans provided in the period 2004-2010 (in EUR mln)

	2004	2005	2006	2007	2008	2009	2010	Total
EIB exposure disbursed								
Senior loans (exposure disbursed)	11.8	111.7	226.4	409.8	524.2	604.4	761.9	2,649.9
of which global loans	7.8	50.3	96.8	144.3	205.6	224.9	233.4	963.1
Subordinated loans and quasi equity	66.9	82.6	108.8	151.9	123.3	89.1	82.5	705.2
Equity	19.6	30.9	66.4	109.4	129.1	164.6	194.8	714.9
Total	983	225.2	401.7	671.1	776.6	858	1,039.3	4,070.1

Investment Facility operations focus on the riskier end (market segment) of private and public sector projects, i.e. those projects that do not meet the Bank's own resources prudential limits and require the use of risk- bearing financial instruments.[5] Eligible institutions are local and/or foreign investors operating in an ACP country, i.e. private entrepreneurs and commercially-run public sector entities, investment funds and other financial intermediaries and large, medium, small and micro-enterprises. Table A.7.3 provides an overview of ACP Investment Facility approvals, signatures and disbursements over de period 2003-2009.

[5] European Investment Bank (2010c). According to this report, '(funding) from the EIB's own resources is more focused on public sector and large-scale private sector industrial undertakings' (page 21), following on the approval by member states of new modalities for lending – from its own resources - in the ACP countries, 'whereby the Bank is allowed to take more risks compared to other regions in the world'.

Table A.7.3 : ACP Investment Facility approvals, signatures and disbursements 2003-2009 (in EUR mln)

	2003	2004	2005	2006	2007	2008	2009	Total
Approvals	369	318	473	576	252	338	623	2,948
Signatures	140	337	351	570	315	336	450	2,499
Disbursements	4	93	114	185	329	218	198	1,142
Disbursements as % of signatures	2.9%	27.6%	32.4%	32.5%	104.6%	64.8%	44.0%	45.7%

Total loan operations equalled some EUR 6.6 billion during these years of which EUR 5.1 (over 75%) for ACP countries in Africa as is shown in Table A.7.4. A detailed overview per region and per year is provided at the end of this Annex.

Table A.7.4: Loan operations to ACP and OCT countries 2004-2010 (in EUR mln)

	Total	Of which risk capital	Share
Africa	5,150	2,780	
Southern Africa (and Indian Ocean)	1,660	657	17.1%
Central and Equatorial Africa	678	455	11.8%
West Africa	1,436	724	18.8%
Regional Africa	368	302	7.8%
East Africa	1,011	655	17%
Caribbean	657	383	9.9%
Pacific	126	80	2.1%
All ACP states	68	18	0.5%
Multi-regional	550	550	14.3%
OCT	45	28	0.7%
Total	6,599	3,852	

Table A.7.5 provides an overview of loans by sector for period 2004-2009.

Table A.7.5: Loans by sector, 2004-2009 (in EUR mln)

	2004	2005	2006	2007	2008	2009	Share
Infrastructure	3	4					0.20%
Industry	68	141	185	235	156	142	30.60%
Energy	0	0	38	107	154	236	17.70%
Services	25	52	73	166	242	241	26.30%
Agriculture, fisheries, forestry	0	7	9	8	8	3	1.10%
Global loans	2	23	62	104	150	179	17.20%
Transport			0	9	9	8	0.90%
Water, sewerage			0	2	3	3	0.20%
Agency agreements	0	0	35	40	55	46	5.80%
Total	98	225	402	671	777	858	

According to the Commission in 2006 (Commission (2006u)), on the basis of the information provided by the IEB, it was 'impossible to understand whether the sectoral distribution of EIB lending and changes in allocations are coherent with what the EIB has been mandated by the EU to achieve, in terms of sustainable development and poverty alleviation'. Moreover, the lending portfolio to ACP over the last ten years 'only partly' reflected 'the principle of poverty reduction via sustainable development which forms the main objective of the Cotonou Agreement' (Commission (2006u). A poverty focus through sectoral priorities could hardly be traced.

Referring to the report of the Mid-Term evaluation of the Investment Facility of 2010 (EGEVAL II Consortium. (2010)), the Commission was somewhat less critical five years later, stating that '(while) recognizing the difficult challenge represented by the Bank's mandate under the Cotonou Agreement, the Investment Facility was described as having a comparative advantage in its high risk bearing capacity, stemming notably from its prudent project selection, its careful analysis of the creditworthiness of operators as well as its technical rigour, whilst it was acknowledged that EIB was exercising due care in intervening without distorting the markets and that specific improvements had been observed in the financial viability and governance practices of the enterprises supported by the Bank, as well as positive

trends recorded in terms of employment generation at operation level. Several factors had limited the ability of EIB to maximise its work, including notably the EIB's low visibility, its insufficient monitoring of the impact of its operations, as well as limited catalytic effect of the Investment Facility and own resources' (Commission (2011w)). However, this reaction does not seem to do full justice to the following observations made in the report[6]:

- With few exceptions, neither for the Investment Facility nor for EIBs own resources was there a 'strategy for maximizing the contribution .. in terms of poverty reduction and sustainable development'. Both the 'organisational set-up and level of resources' did not allow the EIB to maximise its contribution in this respect. Moreover, considerations of the impact on the poor or on specific population groups were in general not central in project analysis and preparation'. Most projects 'tackled poverty reduction indirectly and implicitly through their contribution to sustainable economic growth and employment creation, seen as necessary – but not sufficient – conditions of poverty reduction'.
- The systematic analysis of the profitability of operations conducted at appraisal stage ensured an impact in terms of enhanced growth and competitiveness but did 'not allow an assessment of the operations in terms of broader development impact.' Also infrastructure projects 'were not selected on the basis of prioritisation according to set criteria of development impact'.
- The Investment Facility together with the EIB's own resources allowed the financing of small and medium enterprises and specific higher risk projects. In doing so, the EIB 'brought credibility to projects and confidence to other lenders through its acknowledged financial rigour, professionalism and technical competence in the project instruction and risk analysis'. Its operations 'generally reinforced the financial viability and competitiveness of the enterprises supported, particularly in the financial sector' and helped to address the constraints faced by SMEs and MSMEs. At the same time, modest impact was achieved in terms of mobilizing a critical mass of additional private finance, commercial resources and/or domestic savings.
- While the EIB ensured that environmental, governance, and social requirements were respected ex ante, it did not monitor their implementation. Hence, it is not clear what the actual environmental, governance or social impact of EIB operations was.
- Commission and the EIB generally operated on parallel tracks, and were 'compatible', however with few synergies at operational or strategic level,. The 'interface with other EU initiatives to foster in investment and the business climate in ACP countries and OCTs, ..was mainly limited to exchange of information' .

STABEX and SYSMIN

The Cotonou Agreement of 2000 put an end to the *Système de Stabilisation des Recettes d'Exportation*' (STABEX) and the *System of Stabilization of Export Earnings from Mining Products* (SYSMIN). In line with the arrangements established in the 8th EDF Financial Regulation, STABEX calls for contributions were closed in July 2000. The decision to stop the schemes - though not appreciated by the ACP countries - was taken for good reasons as is shown in e.g. Wolf and Spoden (2000), characterising STABEX as '(one) of the most contested and controversial provisions' of the Convention' as well as CERD (1998) and Aiello (2009).[7] The following paragraphs provide a short brief on the two schemes.

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[6] EGEVAL II Consortium. (2010). The evaluation report observed that 'information collection problems were mainly due to an absence of information on results and impact. This was particularly due to the absence of systematic and detailed monitoring and evaluation of the operations'.

[7] Wolf and Spoden (2000), CERDI (1998) and Aiello (2009) offer the following critical notes on the STABEX and SYSMIN. With respect to STABEX main issues were: (i) unequal distribution across ACP countries, favouring middle-income and high-income countries in the allocation of funds; (ii) the number of products covered was limited, mainly traditional commodities, while processed agricultural goods as well as sugar, meat, and tobacco were not included; (iii) funding was limited, which did not allow for compensation of long-term declines in commodity prices; (iv) slowness of disbursement and delays in transfers, even though it was 'intended as a quick disbursing instrument'– with little income stabilisation as a result; (v) the scheme sent counterproductive signal to the markets and 'thus contributed to a negative dynamic impact to the production pattern' and did not contribute to diversification of exports or the creation of local markets. According to Aiello, the ACP countries saw STABEX as just another source of funding – not as a stabilisation device; (vi) a lack of EC institutional capacity to monitor STABEX implementation and the utilisation of resources. As regards SYSMIN, according to Wolf and Spoden, it had 'been able to compensate for long-term falls in

Lomé I introduced the so-called '*Système de Stabilisation des Recettes d'Exportation*' (STABEX) scheme. It was to help stabilise export receipts for ACP countries for some 50 agricultural products. Under STABEX, funds were made available to all ACP countries each year based on the losses of export earnings recorded in relation to a reference period. Funds were mobilised by means of transfer agreements under which the sums due to each country for each commodity were paid into an interest-bearing bank account. Once the transfer agreements were concluded, an ACP country could not utilize these funds until a protocol, stipulating how the funds were to be utilized, had been signed by the Commission and the country (the 'Framework of Mutual Obligations' (FMO)). STABEX funds were normally assigned to productive investment projects in the field affected by the decline in export earnings; ACP countries were expected to inform the Commission on the use made of the funds. An evaluation of STABEX was published in 1998.

Lomé II introduced the *System of Stabilization of Export Earnings from Mining Products*, (SYSMIN). This was a STABEX-like system to support ACP countries where (i) the viability of key enterprises in the mining sector was in doubt; or (ii) there had been a substantial fall in export earnings from mining products. SYSMIN encompassed four different types of projects and programmes, i.e.: (i) sector support projects; (ii) rehabilitation project; (iii) multi-project programmes; and (iv) diversification projects. An 'Evaluation synthesis - Cooperation in the mining sector and SYSMIN' was published in April 2000.

The total value of EU aid provided under STABEX between 1986 and 1995 was EUR 3.1 billion. Between 1986 and 1998 a total of EUR 3.44 billion was disbursed under SYSMIN; by 2000 there was an unallocated balance of EUR 411 million which was transferred to the national programmes.[8]

Commission transfers of STABEX have continued well into the new Millennium – using funds set aside under earlier EDFs and are reflected in the Commission's annual reports and accounts. Table A.7.6 provides an overview of the STABEX amounts that remained to be transferred during the period 2005-2009.

Table A.7.6: STABEX amounts remaining to be transferred to ACP countries,2005-2009 (in EUR mln)

Year end	Amount
2005	372
2006	192 (of which 55 for Sudan, 27 million for Burundi and 18.2 for Mauritania, the remainder for another 24 ACP countries)
2007	100 (of which close to 49 for Sudan, 15 for Senegal and 11 for St Lucia)
2008	88 million (of which 49 for Sudan and 15 for St Lucia)
2009	65 million (of which 36 for Sudan and €15 for St Lucia)
Sources: Commission (2007n), (2007e), (2007l), (2008g), (2009k), and (2010d).	

The European Court of Auditors has critically followed the STABEX scheme during these years. The Court identified the following main issues[9]:

- STABEX funds were 'sometimes used by common agreement to support operations with no obvious link to the field in question'

(export) earnings, too. Similarly to STABEX it has rather given incentives for increasing the production of SYSMIN-goods and hindered diversification' and was unequally, and slowly distributed. (See also Commission (2000). Evaluation synthesis. Cooperation in the mining sector and SYSMIN. and Commission (1997). Financial cooperation under the Lomé conventions. Aid situation at the end of 1996. November). See also Schilder (2000) referring to benefits going to a small group of countries, compensatory payments providing a disincentive for export diversification and the 'highly clumsy and bureaucratic nature' of the instruments.

[8] Council Decision PE410/2001 includes these resources in programming for the national indicative allocations (part B) under the financial protocol to the ACP-EC Partnership Agreement (see Commission (2007l)).

[9] Court of Auditors (2001b), (2004), and (2005b). In 2004, the Court reported on cases in which local bank accounts into which STABEX funds were paid had been used without the authorisation of the Head of Delegation or that the Head of Delegation had authorized movements of funds even though he was not on the (out of date) list of authorised signatories used by the bank. According to the Commission, once the funds were transferred to the beneficiary countries, they had officially left the EDF accounts and belonged to these countries. Hence, the EDF accounts did not contain any information on the use made of STABEX funds. Nevertheless, monitoring of the use of the funds was taken care of by the Delegations (Court of Auditors (2004)).

- In other cases, implementation of the FMOs was slow and funds were not used by the recipients;
- There was 'very little rigour' in the management of STABEX and the monitoring of the STABEX funds. The Commission had put itself in a situation 'where it (was) not possible for it to check the total use of the funds as it (had) tolerated the national authorising officers' failure to account for their use', given the fact that reporting on the use made of the funds was not as it should have been. In its report on 2004, the Court complained about the lack and reliability of data.

An inventory of STABEX funds was completed in the course of 2004; Delegations were tasked 'to clarify the situation and to commit and disburse all remaining STABEX funds' (Court of Auditors (2005b)) and to ensure that annual STABEX reports were prepared. Nevertheless, in 2006, the Council made reference to 'the unreliability of the balance of STABEX funds disclosed in a report joined to the financial statements (EUR 832 million)'(Council (2006e)).

FLEX and V-FLEX

Replacing STABEX and SYSMIN, two instruments were introced: FLEX in 2000 and V-FLEX in 2008. Both instruments are financed from the non-earmarked reserves of the EDF since Member States decided against increasing their contributions even though the Council acknowledged in 2008 that FLEX (for the ACP countries) was 'the only system effectively compensating developing countries for part of losses caused by reduced export earnings' (Council (2008d)). Commission proposals to introduce FLEX were supported by the Netherlands (KST 42623 (1999)); it supported V-FLEX and the continuation thereof in more recent times.

FLEX was developed in 2000 to support countries facing major losses in their total exports or in their exports of agricultural or mineral products. From 2000 to 2004, ACP countries could claim for FLEX payments if export earnings were 10% (2% in case of LDCs) below the reference level or in case they were (i) confronted with an equivalent drop in earnings from agricultural or mineral products and (ii) these sectors were considered highly relevant for their economy. As these criteria were too stringent, they were revised in 2004 and once more in 2007.[10] Neither change affected the main principles of the instrument. According to Aiello (2009), FLEX spending amounted to EUR 196 million in the period 2003-2006 and 'compensated for slightly more than one fifth of worsening ACP public deficit as a consequence of export shocks'. In the years 2000-2007, Ivory Coast was the biggest recipient (EUR 42.5 million or 16.6%), followed by Mauritius, Mauritania and Papua New Guinea, with Mali receiving EUR 1.1 million. Aiello furthermore points at slow disbursement and the average of 4 years that lapsed between shortfall year and the year in which payment was made – partly because it took until 2003 for FLEX to be operational, partly because in only 2007 funds were available to compensate for losses in 2005 and 2007.

V-FLEX was introduced in November 2008 with a total budget of EUR 500 million[11] to help ACP countries address the negative consequences of soaring food prices. V-FLEX was designed to be 'an ad hoc and rapid, counter-cyclical financing instrument to mitigate the social consequences of the economic downturn in the worst hit countries' belonging to the ACP group (Barder et al (2010)). Its aim is to enable partner countries to maintain priority spending in the social sectors' and/or 'to help countries maintain spending programmes without jeopardising macro-economic stability'.[12] Support is provided through either budget support (all countries in 2009) or existing projects and programmes. Allocations are based on vulnerability, impact and population criteria and aim at mitigating the macro-economic impact of soaring food prices on the budget of the beneficiary countries. In 2009, V-FLEX targeted 15 ACP countries with EUR 236 million and 19 countries with EUR 264 million in 2010, with the biggest amounts set aside for Haiti (EUR 56 million), DRC (EUR 50 million), Malawi (EUR 44 million) and Benin (EUR 38 million). 82% of the original earmarked EUR 500 million was paid by the end of2010 (Commission (2011r)). An assessment of V-FLEX was commissioned in 2010 but is not available in the public domain.

[10] Based on Commission (2007h) and (2009a).

[11] See also Commission (2009a).

[12] Commission (2010u) and (2010v). According to Commission (2011r), 'V-FLEX is disbursed in the form of additional budget support, thereby meeting our objective of helping to mitigate the negative impact of the global economic downturn in the most affected countries'

Funding for the Highly Indebted Poor Countries – the HIPC initiative

The HIPC initiative was launched in 1996 to reduce the debt burden of highly indebted poor countries to a sustainable level. A World Bank administered HIPC Trust Fund was established to provide financial support for multilateral credit institutions participating in this initiative. In 1999, Germany and the UK proposed that the Commission ought to make a 'substantial contribution' to this Trust Fund and at the G7 summit in Cologne (June 1999) co-funding of the HIPC Initiative was agreed upon. The motivation for this decision was that additional resources for highly indebted ACP LDCs would boost development and poverty alleviation.The Netherlands was in favour as, until then, the Commission had done little on debt relief because of resistance from some Member States and there were unused EDF funds available.

Originally, the initiative was to be a temporary action for 2 years; it was however extended several times (1998, 2000, 2002 and 2004). The ACP-EU Council of Ministers allocated resources for a total of EUR 1,185 million in 1999 and 2002 (using EDF resources that were still available from earlier EDFs).[13] By 2005, the Commission's total pledge of EUR 1.6 billion was to cover overall financing of the initiative in favour of HIPCs and to meet the outstanding debt and debt-servicing obligations to the Community of ACP countries eligible under the HIPC initiative.[14]

Based on two financing agreements signed in 2000 and 2003, these contributions were channeled through: (a) the Commission's contribution (as a donor) to the HIPC Trust Fund, with the World Bank as Fund administrators and the African Development Bank as beneficiary (EUR 880 million) and (b) an EIB Trust Fund (as a creditor) providing 'debt relief on outstanding EDF special and risk capital loans for eligible partner countries administered by the (EIB)' (EUR 520 million). Table A.7.7 provides an overview of the EUR 774 million that were channelled through the African Development Bank to individual ACP countries until November 2008.

Table A.7.7: HIPC disbursements by country (status by end November 2008) (in EUR mln)

Country	Amount	Country	Amount
Benin	8.7	Malawi	57.6
Burkina Faso	19.4	Mali	20.1
Cameroon	38	Mauritania	31.5
Central African Republic	6.4	Mozambique	8.9
Chad	7	Niger	22.8
Congo Republic	10.6	Rwanda	41.7
DRC	38.5	Senegal	14.7
Ethiopia	146.3	Sierra Leone	22.6
Ghana	47.2	Sao Tome and Principe	18
Guinea	16	Tanzania	54.7
Guinea Bissau	8.3	Uganda	24
Madagascar	22.8	Zambia	58.4
		Total	***744.3***

Source: Commission (2009p)

[13] The ACP-EC Council of Ministers decided in December 1999 that '(unallocated) programmable resources from the eighth EDF and earlier Funds may be used in the form of grants for the following purposes: (i) meeting the outstanding debt and debt-servicing obligations to the Community of the first ACP countries which qualify under the HIPC initiative (EUR 320 million); (ii) contribution to the overall financing of the HIPC initiative by providing up to EUR 680 million for the HIPC Trust Fund managed by the World Bank' (ACP-EC Council of Ministers. (1999)). In December 2002, the ACP-EC Council of Ministers decided that '(an) amount of EUR 125 million shall be taken from uncommitted interest subsidies from the Eighth European Development Fund for debt alleviation in favour of ACP countries which are eligible under the initiative in favour of highly indebted poor countries' (ACP-EC Council of Ministers (2002).

[14] An additional EUR 40 million were earmarked for the same purpose in 1998 from interest accrued on EDF treasury accounts (Decision No 98/453 of 6 July 1998).

Table A.7.8: EIB Loans per country 2000-2009 (in EUR mln)[15]

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	Total
Africa											
Angola	0	0	0	0	0	0	0	15	0	5	20
Benin	26	0	0	0	0	0	0	14	0	32	72
Botswana	0	0	0	13	2	0	0	5	0	0	20
Burkina Faso	0	14	6	12	15	0	0	0	19	0	66
Cameroon	15	0	20	28	0	0	65	4	4	40	177
Cape Verde	0	0	20	5	0	8	0	0	47	0	80
Chad	0	0	0	2	0	12	0	0	0	0	14
Congo	0	0	0	0	0	0	13	0	0	29	42
DRC									55		55
Djibouti										2	2
Ethiopia	0	0	25	25	0	50	17	0	29	0	146
Gabon	22	0	22	0	10	0	0	7	0	0	61
Ghana	10	14	0	0	0	11	130	0	0	0	164
Guinea				12							12
Kenya	0	4	0	2	22	75	4	20	0	128	256
Lesotho								14			14
Liberia									1		1
Madagascar	7	0	0	11	0	5	2	260	48	0	333
Malawi	14	4	0	0	0	0	0	0	31	0	49
Mali	0	6	0	0	0	0	0	0	0	0	6
Mauritania	32	12	7	0	28	10	5	0	0	75	168
Mauritius	53	0	22	12	14	25	14	0	15	28	183
Mozambique	9	24	14	52	65	0	32	0	0	65	261
Namibia	41	0	0	0	0	0	4	0	35	82	162
Niger	0	0	0	5	0	8	0	0	8	0	21
Nigeria	0	5	0	0	50	124	50	50	0	0	279
Regional - Chad - Cameroon		144									144
Regional Africa	25	10	33	63	0	0	43	8	72	76	330
Regional Central Africa	0	0	0	5	0	0	20	55	0	25	105
Regional East Africa	0	1	0	7	0	0	25	0	0	0	33
Regional Indian Ocean	0	9	0	2	0	0	0	5	0	0	16
Regional South Africa				11							11
Regional West Africa	1	0	0	9	55	18	33	50	0	30	195
Rwanda	19	0	0	0	0	0	3	7	0	5	34
Senegal	14	16	15	0	0	10	0	15	0	0	70
Seychelles	2										2
South Africa	140	50	50	260	0	145	80	113	203	280	1,321
Swaziland	35	5	0	45	0	0	0	0	0	0	85
Tanzania	0	55	0	35	0	0	0	0	0	0	90
Togo										3	3
Uganda	0	25	15	2	35	0	10	129	5	0	221
Zambia	8	27	14	54	0	56	93	30	20	0	302
Sub-total Africa	**473**	**424**	**263**	**671**	**295**	**556**	**644**	**800**	**591**	**906**	**5,622**
Caribbean											
Barbados	0	15	0	0	0	0	10	0	0	0	25

[15] Adapted from: EIB, The EIB Group in the year 2000, Projects financed and statistics; EIB,The EIB Group in the year 2001, Projects financed and statistics; EIB, The EIB Group in the year 2002, Projects financed and statisticsIB,The EIB Group in the year 2003, Projects financed and statistics; EIB, EIB Annual report 2004, Volume III, Statistical report; EIB, EIB Annual report 2005, Volume III, Statistical report; EIB, EIB Annual report 2006, Volume III, Statistical report; EIB, EIB Annual report 2007, Volume III, Statistical report,; EIB, EIB Annual report 2008, Volume III, Statistical report; EIB, EIB Annual report 2009, Volume III, Statistical report.

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	Total
Belize							4				4
Dominican Republic	19	25	40	40	20	0	7	1	20	32	203
Grenada						5					5
Guyana	1	20	0	0	0	0	0	0	0	0	21
Jamaica	35	0	35	0	0	0	0	0	35	0	105
Regional Caribbean	8	5	0	8	5	40	20	45	9	0	140
St Kitts and Nevis	4										4
St Lucia	0	8	0	0	0	0	0	0	0	11	19
St Vincent and Grenadines					8						8
Trinidad and Tobago	0	0	6	0	0	27	0	10	0	0	43
Sub-total Caribbean	**67**	**73**	**81**	**48**	**33**	**72**	**41**	**56**	**64**	**43**	**576**
Pacific											
Fiji	0	0	0	0	11	0	25	0	0	0	36
Regional Pacific	0	0	0	0	0	13	9	2	23	3	51
Samoa	3		4								7
Solomon							4				4
Tuvalu					1						1
Vanuatu										4	4
Sub-total Pacific	**3**	**0**	**4**	**0**	**12**	**13**	**37**	**2**	**23**	**7**	**102**
ACP group	**50**	**0**	**0**	**0**	**100**	**4**	**104**	**3**	**0**	**178**	438
Total	**592**	**497**	**348**	**719**	**441**	**644**	**825**	**860**	**678**	**1,133**	**6,738**

Table A.8.9: EIB Loans by region/area and main sectors by year in the period 2000-2010 (EUR mln)

		Africa	Caribbean	Pacific	OCT	Multiregional	Total
2000	Energy	**10**	9		2		**21**
	Communications	**58**	35				**93**
	Water management and sundry						
	Industry services	**93**	8				**101**
	Global Loans	**104**	25	3	5	50	**187**
	Total	**265**	**77**	**3**	**7**	**50**	**402**
2001	Energy	**240**	20				**260**
	Communications	**1**	15				**16**
	Water management and sundry	**65**					**65**
	Industry services	**44**				8	**52**
	Global Loans	**86**	38		3		**127**
	Total	**436**	**73**	**0**	**3**	**8**	**520**
2002	Energy	**37**					**37**
	Communications	**87**					**87**
	Water management and sundry	**23**	15				**38**
	Industry services	**30**					**30**
	Global Loans	**36**	66	4			**106**
	Total	**213**	81	4	0	0	**298**
2003	Energy	**61**					**61**
	Communications	**56**					**56**
	Water management and sundry	**88**					**88**
	Industry services	**47**					**47**
	Global Loans	**165**	48				**214**
	Total	**417**	48	0	0	0	**466**
2004	Energy	**48**	8				**56**
	Communications	**14**					**14**
	Water management and sundry						**0**
	Industry services	**84**	20	11			**115**
	Global Loans	**150**	5	1		100	**256**
	Total	**296**	33	12	0	100	**441**
2005	Energy	**179**	5				**185**
	Communications	**10**					**10**
	Water management and sundry						**0**
	Industry services	**207**					**207**
	Global Loans	**54**	67	13		4	**138**
	Total	**450**	**72**	**13**	**0**	**4**	**540**
2006	Energy	**173**	10	25			**208**

		Africa	Caribbean	Pacific	OCT	Multiregional	Total
	Communications		4				4
	Water management and sundry	48					48
	Industry services	113		4			117
	Global Loans	230	27	9		103	369
	Total	564	41	38	0	103	746
2007	Energy	99					99
	Communications	15					15
	Water management and sundry	42					42
	Industry services	295					295
	Global Loans	236	56	2	10	3	307
	Total	687	56	2	10	3	758
2008	Energy	170					170
	Communications	47	35	23			105
	Water management and sundry	78					78
	Industry services	38					38
	Global Loans	132	29		10		171
	Total	465	64	23	10	0	562
2009	Energy	99		4			103
	Communications	159	32				190
	Water management and sundry	40					40
	Industry services	185					185
	Global Loans	143	11	3	10	178	345
	Total	626	43	7	10	178	863
2010	Energy	250	27				277
	Communications	7					7
	Water management and sundry	140					140
	Industry services	5					5
	Global Loans	337	21	9	15	162	544
	Total	739	48	9	15	162	973
Total	Energy	1,366	79	29	2	0	1,477
	Communications	454	121	23	0	0	597
	Water management and sundry	524	15	0	0	0	539
	Industry services	1,141	28	15	0	8	1,192
	Global Loans	1,673	393	44	53	600	2,764
	Total	5,158	636	111	55	608	6,569

Annex 8: Other European foreign aid instruments

Geographical instruments

Instrument for Pre-Accession Assistance (IPA)

The Instrument for Pre-Accession Assistance (IPA) is regulated by Council Regulation 1085/2006, adopted on 17 July 2006, with more detailed implementing rules provided in the Commission Regulations 718/2007 and 80/2010 of 12 June 2007 and 28 January 2010 respectively. The Regulation replaces a series of earlier regulations going back to 1989. The beneficiary countries are divided into two categories, depending on their status: candidate countries under the accession process (i.e. Croatia, Turkey, and FYRO Macedonia) and potential candidate countries under the stabilisation and association process (i.e. Albania, Bosnia and Herzegovina, Montenegro, Serbia and Kosovo). The Instrument covers both types of countries. IPA comprises five components, i.e.

- Transition Assistance and Institution Building
- Cross-Border Cooperation
- Regional Development (focusing on areas such as transport, environment and economic cohesion);
- Human Resources Development and
- Rural Development.

Total pre-accession funding for the period 2007-2013 is EUR 11.5 billion.

European Neighbourhood and Partnership Instrument (ENPI)

The European Neighbourhood and Partnership Instrument (ENPI) was established with Regulation (EC) No 1638/2006 of the European Parliament and of the Council laying down general provisions establishing a European Neighbourhood and Partnership Instrument of 24 October 2006. ENPI represents the strategic continuity of the earlier TACIS (for former Soviet republics) and MEDA (for the Mediterranean countries) programmes. The Instrument concerns 16 partner countries that are covered by the European Neighbourhood Policy, i.e. Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Moldova, Morocco, the Palestinian Authority, Syria, Tunisia and Ukraine, the Strategic Partnership with the Russian Federation. Article 1 of the Regulation stipulates that 'Community assistance shall be used for the benefit of partner countries.

Community assistance may be used for the common benefit of Member States and partner countries and their regions, for the purpose of promoting cross-border and trans-regional cooperation' and 'The European Union is founded on the values of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law and seeks to promote commitment to these values in partner countries through dialogue and cooperation. Article 2 indicates the areas in which the Community may provide assistance.[1] Key ENPI features are furthermore:

- Cross-border co-operation
- A Governance Facility
- The Twinning instrument, bringing together public sector expertise from EU Member States and beneficiary countries;

[1] Areas are: (i) promoting political dialogue and reform; (ii) promoting legislative and regulatory approximation; (iii) promoting the rule of law and good governance, including strengthening the effectiveness of public administration and the impartiality and effectiveness of the judiciary, and supporting the fight against corruption and fraud; (iv) promoting environmental protection, nature conservation and sustainable management of natural resources and (v) supporting policies aimed at poverty reduction or the, promotion of social development and (vi) promoting and protecting human rights and fundamental freedoms, including women's rights and children's rights. Support may also be provided for electoral observation and post-crisis missions as well as disaster preparedness.

- Technical Assistance and Information Exchange (TAIEX) that aims to foster political and economic co-operation in a number of areas, primarily regarding the approximation, application and enforcement of EU legislation.

ENPI programmes follow a specific programming process based on: (i) multi-annual programming papers (for national, multi-country and cross-border strategies) and multiannual indicative programmes; and (ii) annual action programmes and joint programmes for cross-border cooperation. Joint operational programmes are, in principle, implemented through shared management by a joint managing authority located in a Member State. This authority may be assisted by a technical secretariat. For the period 2007-2013, the ENPI financial envelop equals EUR 11.2 billion of which 95% for national and multi-country programmes and 5% for cross-border cooperation programmes. ENPI is put into effect through bilateral action plans that set out an agenda for a period of three to five years.

Development Cooperation Instrument (DCI)

The **Development Cooperation Instrument** (DCI) encompasses both geographical and thematic instruments; in addition DCI funds a programme of accompanying measures for the 18 ACP Sugar Protocol countries to help them adjust following the reform of the EU sugar regime. The Instrument was established with European Parliament and Council Regulation No 1905/2006 of 18 December 2006 establishing a financing instrument for development cooperation.

The **geographic component of DCI** provides assistance to developing countries in Latin America, Asia, including Central Asia and South Africa. DCI replaced the ALA programme for developing countries in Asia and Latin America, parts of the TACIS programme (Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan) and the Programme for Reconstruction and Development in South Africa (EPRD). According to Article 2 of the Regulation, '(the) primary and overarching objective of cooperation under this Regulation shall be the eradication of poverty in partner countries and regions in the context of sustainable development, including pursuit of the Millennium Development Goals (MDGs), as well as the promotion of democracy, good governance and respect for human rights and for the rule of law'. LDCs and low income countries are given priority in terms of overall resource allocation. Areas of cooperation under the geographical programmes include:

- Human development (education and health)
- Social cohesion and employment
- Governance, democracy, human rights and support for institutional reforms
- Trade and regional integration
- Environment and sustainable development of natural resources
- Water and energy
- Rural development, territorial planning, agriculture and food security and
- Support in post-crisis situations and for fragile States (Regulation No 1905/2006, Article 5).

The financial framework for the implementation of this Regulation over the period 2007-2013 is EUR 16.897 billion: EUR 10.057 billion for the geographic programmes, EUR 5.596 billion for the thematic programmes and EUR 1.244 billion for the ACP Sugar Protocol countries.

DCI thematic instruments

Thematic programmes financed by the Commission 'encompass a specific area of activity of interest to a group of partner countries not determined by geography, or cooperation activities addressed to various regions or groups of partner countries, or an international operation that is not geographically specific. They also have an important role in developing Community policies externally and ensuring sectoral consistency and visibility'. As per European Parliament and Council Regulation (EC) No 1905/2006 of 18 December 2006, thematic programmes intervene 'in the areas of human and social development, environment and sustainable management of natural resources, including energy, non-State actors and local authorities, food security and migration and asylum'.

The Regulation stipulates that '(the) Community should finance thematic programmes in countries, territories and regions eligible for assistance under a geographic programme provided for under this Regulation, for assistance under Regulation (EC) No 1638/2006 *or for geographic cooperation in accordance with the European Development Fund (EDF)*' (Italics IOB).

Article 11.1 of Regulation (EC) No 1905/2006 defines thematic programmes in terms of 'subsidiary to programmes referred to in Articles 5 to 10 and shall encompass a specific area of activity of interest to a group of partner countries not determined by geography, or cooperation activities addressed to various regions or groups of partner countries, or an international operation that is not geographically specific'. It also states that 'the actions undertaken through thematic programmes shall add value to and be additional to and coherent with, actions funded under geographic programmes'. Article 11 furthermore specifies that the following principles shall apply:

- Community policy objectives cannot be achieved in an appropriate or effective manner through geographic programmes and the thematic programme is implemented by or through an intermediary organisation such as nongovernmental organisations, other non-State actors, international organisations or multilateral mechanisms. This includes global initiatives supporting the MDGs, sustainable development or global public goods and actions in Member States and acceding countries by way of derogation from Article 24 as envisaged in the relevant thematic programme, and/or
- actions are of the following nature: (i) multi-regional and/or cross-cutting actions, including pilot projects and innovatory policies; (ii) actions in cases where there is no agreement on the action with the partner government(s); (iii) actions relevant to the purpose of a specific thematic programme which respond to a Community policy priority or an international obligation or commitment of the Community; (iv) where appropriate, actions in cases where there is no geographic programme or it has been suspended'.

Thematic programmes may also fund activities that complement the geographical programmes by supporting other stakeholders such as civil society organisations or international institutions with exclusive competence.

Programming of the DCI thematic programmes is different from the way in which national and regional programmes are handled under the EDF. For these programmes, strategy papers are developed, that, for each theme, reflect the constraints, and opportunities, activities of the main other donors, the Commission's response strategy as well as a multi-annual indicative programme. However, this is done in Brussels by the Commission unit (currently within DEVCO) that is responsible for the theme. This is done in consultation with the relevant geographical units, to ensure consistency with national and regional strategies, as well as other DGs, including those dealing with internal EU policies that have potential external impact (e.g. from ECFIN, TREN, ENV to ECHO). Quality control is done by the Inter-service Quality Support Group. Draft strategy papers are submitted to the Member States' Management Committee, and, once approved, are published on the Commission's website. Until the reform of 2011, they were then handed over to EuropeAid for implementation on the basis of Annual Action Programmes, drawn up after consultation with DGDEV and RELEX. These Programmes were also subject of inter-service consultation and comitology procedures before adoption by the Commission.

Unlike geographical programmes, thematic programmes are not negotiated between the partner countries and the Commission. Instead, they are proposed by civil society organisations or NGOs in Europe or beneficiary states. EU Delegations play a key role in implementing thematic programmes at local level. They take part in: consultations with local civil society; decision-making; managing calls for proposals; on-the-ground monitoring of implementation; informing, training and networking of local organisations'.

For each thematic programme, thematic strategy papers are to be developed, which 'shall set out the Community's strategy for the theme concerned, the Community's priorities, the international situation and the activities of the main partners' (Article 20). The papers shall set out the priority areas selected for financing by the Community, the specific objectives, the expected results and the performance indicators' as well as an 'indicative financial allocation'. Strategy papers shall be reviewed at mid-term, or *ad hoc* if necessary.

The indicative financial envelope for thematic programmes for the period 2007-2013 is EUR 16,897 million of which EUR 5,596 million is reserved for the following five thematic programmes:

- Investing in people - EUR 1,060 million
- Environment and sustainable management of natural resources - EUR 804 million;
- Non-State actors and local authorities in development - EUR 1,639 million;
- Food security - EUR 1,709 million
- Migration and asylum - EUR 384 million.

Investing in people

The Programme 'Investing in people' is the only thematic programme which covers nearly all the Millennium Development Goals (MDGs). It focuses on 'six themes crucial for human and social development', (i.e.) health, knowledge and skills, culture, and social cohesion and employment, gender equality, youth and children'. Under these headings, the programme supports in brief the following types of activities:

- *Good health for all*, with a focus on the human resources crisis in health-care systems, poverty-related diseases, neglected or emerging diseases (including HIV/AIDS, tuberculosis, and malaria) and the promotion of sexual and reproductive health and rights (SRHR).
- *Knowledge and skills for all*, which is about *inter alia* the promotion of universal access to quality primary education and access to vocational and skills training as well as transnational university cooperation and international student and scholar mobility and improving education statistics, with special attention for 'marginalised and vulnerable children'.
- *Culture*, which is about promoting 'mutual understanding and dialogue between peoples and cultures, promote cultural diversity and respect for the equal dignity' and support for an emerging economic sector.
- *Employment and social cohesion*, which is primarily about supporting the 'decent work for all' agenda, 'social welfare and inclusion, productive employment, social dialogue, development of human resources, empowerment of women and fundamental social rights, including combating all forms of child labour and trafficking of people'.
- *Gender equality*, with attention for e.g. 'gender equality issues such as girls' and women's access to knowledge and skills, safe school environments, sexual and reproductive health and rights, social protection and employment'.
- *Children and youth*, which focuses on 'e.g. 'preventing all forms of child labour, trafficking and sexual violence', and support for youth employment and the mainstreaming of youth issues.

The programme is implemented through Annual Action Programmes based on the general indications provided by the Thematic Strategy Paper and Multi-Annual Indicative Programme. These were both revised during the 2010 Mid-Term review. Budget allocations for the programme for the period 2007-2013 are given in Table A.8.1.

Table A.8.1: Investing in people budget (EUR million) and shares

	2007-2010		2011-2013	
	Budget	Share	Budget	Share
Good health for all	300	55%	280	56%
Education and skills	65	12%	72	14.5%
Gender	29	5%	37	7.5%
Other (i.e. culture, employment and social cohesion and children and youth)	113	21%	113	22%
Total	541		502	

Funding is usually disbursed through Calls for Proposals. For global or strategic initiatives, agreements are also signed with international organisations, such as UN agencies or the World Bank.[2]

[2] In this respect, funding is for example provided to the Global Fund to Fight AIDS, TB and Malaria (GFATM), the Fast

Environment and sustainable management of natural resources including energy

The overall objective of the thematic programme for Environment and Sustainable Management of Natural Resources including Energy is 'to integrate environmental protection requirements and climate change action into the Community's development and other external policies as well as to help promote the Community's environmental, climate and energy policies abroad in the common interest of the Community and partner countries and regions'. Programme's objectives read as[3]:

- Assist developing countries to achieve the Millennium Development Goals and notably to make progress towards MDG7 on environmental sustainability by providing tools and examples of good practice and innovative approaches.
- Promote environmental integration and sustainable management of natural resources, including energy across all EC external assistance.
- Promote coherence in EU policies that affect the global environment and the global security of energy supplies or those of partner countries.
- Enable the European Community and assist the EU to meet their international obligations and commitments under Multilateral Environmental Agreements and other processes, especially with regard to assisting developing countries.
- Promote international environmental governance and EU environmental and energy policies abroad
- Support sustainable energy options in partner countries and regions.

With a budget of EUR 470 million for the period 2007-2010, programme priorities (and accompanying financial resource) are the following:

- Assisting developing countries to make better progress on integrating environmental sustainability in decision making by means of support to civil society stakeholders (EUR 14.2 million (3%)).
- Promoting the implementation of initiatives and commitments made at both European and international level (EUR 273.8 million (58%)).
- Increasing the prominence of environmental issues in EU external Policy (EUR 8.2 million (2%)).
- Strengthening international governance on the environment and make EU actions a key part of the process (EUR 38.5 million (8%)).
- Broadening the options as regards sustainable energy, in particular by developing a legislative and administrative framework which favours investments and businesses, and also by stimulating international cooperation (EUR 115.4 million (25%)).

For the period 2011-2013, a budget of EUR 517 million has been programmed, set aside for the following priorities:

- Climate change and sustainable energy – i.e. Climate Change Adaptation (including the Global Climate Change Alliance); Climate Change mitigation, in particular Reducing emissions from deforestation and forest degradation (REDD), Low-emission development and technology cooperation (LEDS) and technology transfer and Sustainable energy (allocated budget EUR 237.5 million).
- Environment for development - i.e. Biodiversity, forest conservation and desertification; Forest Governance and FLEGT; Green economy (allocated budget EUR 154.5 million).
- Strengthening environment and climate governance – i.e. External Environment Policy; External Climate Policy; Support for mainstreaming and promoting governance and transparency for natural resource management, including water (allocated budget EUR 125 million).

Track Initiative Catalytic Fund (World Bank) for education, and support for governance in the cultural sector through UNESCO.

[3] Commission (2006f).

The thematic programme is implemented through Annual Action Programmes based on the general indications provided by the Thematic Strategy Paper and Multi-Annual Indicative Programmes (currently operating: Multi-Annual Indicative Programme 2011-2013).

Non-state actors and local authorities in development

For the Non-state actors and local authorities in development programme, Commission Communication COM (2006) 19 final of 25 January 2006 describes the overall objectives in the following terms: 'The primary and overarching objective is the eradication of poverty in the context of sustainable development, including pursuit of the Millennium Development Goals (MDGs). Other major objectives (as defined in the European consensus) include good governance and human rights, which are cross-cutting issues to be mainstreamed in interventions in partner countries'. Based on this general statement, the Communication identifies as three types of interventions that will be supported, i.e.:

- Interventions in partner countries and regions will promote an inclusive and empowered society. The objectives will be to (1) favour populations out of reach of mainstream services and resources and excluded from policy making processes, (2) strengthen the capacity of civil society organisations in partner countries, with a view to facilitating their participation in defining and implementing sustainable development strategies, (3) facilitate interaction between state and non-state actors in different contexts. Attention will be paid to identifying and targeting actors from particularly marginalized and vulnerable groups. Interventions may also include activities aimed at strengthening citizens' capacity to take action, defend their rights and take part in the political debate at local, national and international levels.
- Awareness raising and education for development activities in the EU and acceding countries aim at increasing the level of consciousness of the European population regarding development issues. They mobilise active public support in Europe for poverty reduction and sustainable development strategies in partner countries, for fairer relations between developed and developing countries, and reinforce civil society role as a factor of progress and transformation.
- Coordination activities between civil society networks, within their organisations and with EU institutions, aim at achieving more efficient cooperation, by fostering synergies and ensuring a structured dialogue. Coordination will help to increase the credibility, visibility and influence of stakeholders.

The Commission's 2007-2013 strategy paper for the programme translates this into three objectives: '(1) promote an inclusive and empowered society in partner countries to facilitate non- state actor and local authority participation in poverty reduction and sustainable development strategies; (2) promote awareness raising and development education in the EU and acceding countries for development issues and (3) facilitate coordination and communication of NSA and local authority networks in the EU and acceding countries'. Commission papers distinguish interventions in five 'areas', i.e. in-country interventions, global, multi-country/regional interventions, development education, coordination, cooperation and networking activities, non-state actors/local authorities in development.

The indicative amount set aside is EUR 903 million for the years 2007-2010. For the period 2011-2013, the Commission's strategy paper mentions an indicative amount of EUR 702 million. Budget allocations per objective are as follows for the two periods.

Table A.8.2: Budget allocations (EUR million) NSA programme 2007-2013

	2007-2010	2011-2013
In-country interventions	741 (82%)	583 (83%)
Awareness raising	126 (14%)	102 (14.5%)
Coordination, networking, etc.	18 (2%)	17 (2.5%)
Total	903	702

Activities in each targeted developing country are generally managed by relevant EU Delegations while EuropeAid manages multi-country activities and actions in Europe. The programme is implemented through Annual Action Programmes based on the general indications provided by the Thematic Strategy

Paper and Multi-Annual Indicative Programme 2007-2010 and 2011-2013. Implementation of the programme is by and large through calls for proposals.[4]

The European Court of Auditors produced a special report on the Commission's management of non-state actors' involvement in EC development cooperation in 2009.[5]

Food security

According to Commission Communication COM (2006) 21 Final, the Food Security Thematic Programme [6] aims to 'improve the impact of the EU Food Security policy, particularly on the most vulnerable, through a consistent set of priorities and actions which complement national programmes and improve their coherence'.

This was then reworded in 2007 to read as 'improve food security in favour of the poorest and the most vulnerable and contribute to achieving the first MDG, through a set of actions which ensure overall coherence, complementarity and continuity of Community interventions, including in the area of transition from relief to development'. With a budget of EUR 925 million, this aim is to be pursued in the period 2007-2010 through the following strategic priorities:

- Supporting the delivery of international public goods contributing to food security: research and technology: this component aims to support pro-poor and demand-driven agricultural research and technology and improve its outreach and dissemination (25%).
- Linking information and decision making to improve food security response strategies: this component aims to strengthen national and regional stakeholders' capacities to produce and analyse food security information, with a view to designing effective response strategies to prevent food crises and reduce chronic food insecurity (7%).
- Exploiting the potential of continental and regional approaches to improve food security: this component aims to support regional initiatives in Asia and Latin America and continental/regional priorities set in a new AU-EU partnership with Africa (disaster and risk reduction, agricultural policy development and harmonisation, sustainable management of natural resources) (15%)Addressing food security in exceptional situations of transition, and in fragile and failed states: this component aims to link relief, rehabilitation and development. It will support the most vulnerable in protecting and recovering livelihood assets, while improving self-reliance and crisis prevention (29%).
- Promoting innovation to combat food insecurity: this component aims to foster innovative practices and approaches to food security and their South-South up-scaling/dissemination. A special, final allocation is earmarked for countries in Asia, Latin America and Neighbourhood countries phasing out food security assistance (17%).
- Fostering advocacy and advancement of the food security agenda, harmonisation and alignment with development partners and donors: this component aims to promote food security at international level and aid effectiveness, in line with the OECD Paris Declaration (1%).

The programme covers all developing countries. In the area of food security aid, it targets 'two broad disadvantaged groups: (i) those who are not self-reliant and need temporary support to sustain their livelihoods (e.g. through safety nets), and (ii) those who need temporary support to graduate from absolute poverty and engage in productive activities'.

The programme aims to ensure overall coherence in the European approach to food security and to offer complementarity to the geographical programmes and to the Food Facility activities. The Programme aims

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[4] Exceptions are with in the field of development education/coordination, cooperation and networking activities.
[5] Special Report No.4. the Commission's management of non-state actors' involvement in EC development cooperation. The report is available at http://eca.europa.eu/portal/pls/portal/docs/1/8038812.pdf.
[6] The Programme is based on Article 15 of the EU Regulation establishing the Development Co-operation Instrument (DCI), and addresses food security at global, continental and regional levels, complements the geographical programmes and comes to the fore where geographical instruments cannot fully operate.

to complement country food security programmes covered mainly by geographical instruments (EDF, DCI and ENPI) whereas humanitarian food aid is covered by the Instrument for humanitarian aid managed by DG ECHO.

For the period 2011-2013, the total budget is set at EUR 749 million, divided as follows:

- Research, technology transfer and innovation to enhance food security (35%)
- Strengthened governance approaches for food security (23%)
- Addressing food security for the poor and vulnerable in fragile situations (40%)
- Reserve (2%)

The Programme is implemented through Annual Action Programmes based on the general indications provided by the Thematic Strategy Paper and Multi-Annual Indicative Programme for 2007-2010 and 2011-2013. The Programme partly operates through calls for proposals (in 2008 for example in Cambodia and Laos). It furthermore provides funding for inter alia the annual contribution to FAO, international agricultural research for development done by the Consultative Group on International Agricultural Research (CGIAR), the Forum for Agricultural Research in Africa (FARA), the African Forum for Agricultural Advisory Services (AFAAS) and the African Centre for Bananas and Plantains (CARBAP). An overview of actions funded in the years 2007 to 2010, focusing on the ACP countries, is provided at the end of this Annex.

Migration and asylum

The thematic programme for cooperation with third countries in the areas of migration and asylum aims 'to bring specific, complementary assistance to third countries to support them in their efforts to ensure better management of migratory flows in all their dimensions'. The programme is the successor to the 2004-2006 AENEAS programme; this programme was evaluated in 2009.[7] Emphasis is on the 'neighbourhood countries'.

The thematic programme does not directly address the root causes of migration – these are expected to be tackled by the larger geographical programmes. Instead it covers 'the major fields of action which correspond to the essential facets of the migratory phenomenon', in particular: (i) migration and development; (ii) economic migration; (iii) prevention of and fight against illegal immigration, including migrants' voluntary return and reintegration; and (iv) international protection'. It puts an emphasis on capacity building in countries of origin, transit and encourages cooperation initiatives to develop and share experience, working methods and best practices regarding various aspects of migration. The list of 'eligible' partners is almost endless.
The programme has a focus on the countries that are eligible for ENPI (in particular) and DCI and has the following five 'strands':

- Fostering the links between migration and development[8]
- Promoting well-managed labour migration[9]

[7] Picard, E., Charpin, L., Aiolfi, L. and Simoni, A. (2009). Evaluation of the AENEAS programme – Finance and technical assistance to third countries in the area of migration and asylum – AENEAS Programme 2004-2006, Final report. December.
[8] Which is about (i) Encouraging the contribution of diasporas to the socio-economic development of their country of origin and increasing the value of migrants' return; (ii) Mitigating brain drain and promoting brain circulation, including through adequate forms of temporary migration; (iii) Facilitating the financial transfers of migrant workers (remittances) to their country of origin, in particular by reducing the cost of these transfers and promoting their use for the purpose of development; (iv) Supporting voluntary return and professional and socio-economic reintegration of migrants in their country of origin, including through assistance with related public policies and social security schemes; and Building capacities for better managing migration
[9] Which envisages to: (i) Disseminate information about the legal framework for migration and conditions of entry in and stay on the territory of the Union; (ii) Disseminate information about labour migration opportunities and needs in Member States and about qualifications of third countries candidates to migration; support to pre-departure training for candidates to legal migration to the European Union including information about integration in Member States and

- Fighting illegal immigration and facilitating the readmission of illegal immigrants[10]
- Protecting migrants against exploitation and exclusion[11]
- Promoting asylum and international protection, including through regional protection programmes.

As is evident from the Strategy Paper for 2007-2010, setting aside a total of EUR 205 million, the Programme is 'based on a geographic approach'. A distinction is made between:

- Southern migratory route (south/north migration), including flows originating from or transiting through the Sub-Saharan African countries and Northern Africa (EUR 70 million).
- Eastern migratory route (east/west migration): including flows originating from or transiting through Russian Federation, Western NIS, Southern Caucasus and Central Asia (EUR 50 million).
- Migratory flows coming from outside of the above routes, i.e. those coming from Middle East, Southern and Eastern Asia and the Pacific region, Latin America and the Caribbean' (EUR 37 million).
- Global and multi-regional activities (EUR 28 million) plus EUR 20 million for 'special measures'.

A Mid-Term review was carried out in 2010 to define the programme's multi-annual strategy for the period 2011-2013.[12] In its overall assessment, the report highlights that the thematic programme's 'challenge is to simultaneously promote responses to EU Member State migration concerns, most of which have to do with reducing illegal immigration, and promote migration as a force for development in Third Countries, as called for in the instrument which finances it'. The review found that impact was rather difficult to measure: projects were still on-going, the theme was too broad and the context of multiple interventions complicated, while in many countries migration was not a policy priority. Only a few projects were devoted to high-level policy dialogue about the link between migration and development, the programme's main concern being with border control or other security-related aspects. Another issue was the programme's focus on migration to Europe, while e.g. in West Africa 90% of the migratory movements was according to OECD intra-regional. Some projects had produced policy-relevant research on financial, cultural and political links between diasporas and their homelands (though not on 'brain drain') or had made an attempt to improve the contribution of remittances to economic development as one of their focal areas. Others had attempted to raise awareness of the advantages of circular migration and mobilization of the skills of emigrant communities.

The strategy for the period 2011-2013, with a budget of EUR 179 million, maintains the above division in migratory routs, allocating EUR 68 million for the Southern Mediterranean, Sub-Saharan Africa and Middle

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migrants' rights and obligations; and (iii) Encourage the definition and implementation of legislative frameworks for migrant workers in third countries.

[10] This focuses on 'supporting co-operation projects with third countries, in particular coordination between institutions in charge of migration management' (e.g. human trafficking, discouraging illegal immigration, and the implementation of readmission agreements).

[11] Which is about amongst others developing third countries' legal systems and the development of measures to protection migrants from xenophobia and racism.

[12] MacKellar et al (2010). In brief, the report concludes that: (i) 'Coherence and relevance of the Thematic Programme, while positively assessed, could be significantly improved'; (ii) 'The low level of EC Delegation involvement in Thematic Programme strategy development and implementation has been a limiting factor, adversely affecting relevance, effectiveness and efficiency, impact, and ultimately EC value added; (iii) Despite the fact that many have been in operation only a short time, Thematic Programme projects have demonstrated the potential to have significant impacts in each of the five areas covered. Technical assistance and capacity building have been of high quality. Concerns about lack of coordination and sustainability have, however, emerged; (iv) 'The Thematic Programme has successfully involved and exploited the comparative advantage of international organisations. However, there are barriers to the full participation of national NGOs. Nor has it proven possible to fully involve Third Country governments as active stakeholders'; (v) 'Technical assistance and capacity building in the fight against illegal migration has been effective, subject to the cautions related sustainability outlined above and the fact that, in some Third Countries, the fight against illegal migration is not a major government priority The Thematic Programme could do better, though, on mainstreaming democratization and human rights into its projects'; (vi) 'Perception of European policies on migration and asylum by Third Country governments, beneficiaries and other stakeholders is frequently incomplete and distorted'.

East; EUR 28 million for Eastern Europe and Central Asia, and EUR 18 million to other regions. Furthermore EUR 53 million is set aside for 'targeted thematic priorities' and EUR 12 million for special measures.

Part of the resources under the programme is allocated on the basis of calls for proposals. In addition, it provides funding for direct agreements with e.g. IMO, UNDP, UNHCR and the World Bank (2007-2013). Projects can be awarded to a range of institutions, from international organisations to NGOs and institutions of the EU Member States (e.g. the Border Agency of the UK Home Office, the Spanish '*Jefatura Fiscal y Fronteras de la Guardia Civil*' and the Ministry of Interior of the Czech Republic).

Like the other DCI thematic programmes, the programme operates on the basis of Annual Action Programmes that permit the Commission to define on an annual basis the precise thematic and geographical areas of intervention, objectives, type of actions and expected outputs.

Instrument for cooperation with industrialised and other high-income countries and territories

The Instrument was established by Council Regulation (EC) No 1934/2006 of 21 December 2006. The Instrument concerns cooperation and commercial relations between the European Union and the industrialised countries of North America, the Far East and Australasia. Countries covered by the Regulation are: Australia, Bahrain, Brunei, Canada, Chinese Taipei, Hong Kong, Japan, the Republic of Korea, Kuwait, Macao, New Zealand, Oman, Qatar, Saudi Arabia, Singapore, the United Arab Emirates and the United States. Its primary objective is 'to provide a specific response to the need to strengthen links and to engage further with them on a bilateral, regional or multilateral basis in order to create a more favourable environment for the development of the relations of the Community with these countries and territories and promote dialogue while fostering Community's interests' (Article 1).

Main areas of cooperation include:

- Cooperation, partnerships and joint undertakings between economic, academic and scientific actors in the Community and partner countries.
- Stimulation of bilateral trade, investment flows and economic partnerships.
- The promotion of dialogues between political, economic and social actors and other non-governmental organisations in relevant sectors in the Community and partner countries.
- The promotion of cooperative projects in areas such as research, science and technology, energy, transport and environmental matters.
- The enhancement of awareness about and understanding of the European Union and of its visibility in partner countries.

The instrument is allocated a budget of EUR 172 million for the period 2007-2013.

Thematic instruments

European Instrument for Democracy and Human Rights (EIDHR)

The Instrument was established with Regulation (EC) No 1889/2006 of the European Parliament and of the Council of 20 December 2006. It replaced the European Initiative for democracy and human rights of the period 2000-2006 (established with Council Regulations No 975/1999 (developing countries) and No 976/1999 (other third countries) of 29 April 1999).

According to Article 1 of the Regulation, within the frame of the EIDHR 'the Community shall provide assistance, within the framework of the Community's policy on development cooperation, and economic, financial and technical cooperation with third countries, consistent with the European Union's foreign policy as a whole, contributing to the development and consolidation of democracy and the rule of law, and of respect for all human rights and fundamental freedoms'. Community assistance shall furthermore aim in particular at:

- Enhancing the respect for and observance of human rights and fundamental freedoms, as proclaimed in the Universal Declaration of Human Rights and other international and regional human rights instruments, and promoting and consolidating democracy and democratic reform in third countries, mainly through support for civil society organisations, providing support and solidarity to human rights defenders and victims of repression and abuse, and strengthening civil society active in the field of human rights and democracy promotion.
- Supporting and strengthening the international and regional framework for the protection, promotion and monitoring of human rights, the promotion of democracy and the rule of law, and reinforcing an active role for civil society within these frameworks.
- Building confidence in and enhancing the reliability of electoral processes, in particular through election observation missions, and through support for local civil society organisations involved in these processes'. Assistance is implemented primarily through strategy papers, defining the Community's priorities, the international situation and the activities of the main partners, and related action plans.

Eligible for funding are e.g. civil society organisations, and public- and private-sector non-profit organisations. For the period 2007-2013 the EIDHR has a budget of EUR 1,104 million.

Instrument for Nuclear Safety Cooperation

The Instrument for Nuclear Safety Cooperation was established with Council Regulation (Euratom) No. 300/2007 of 19 February 2007. With the Regulation, the Community aims to 'support the promotion of a high level of nuclear safety, radiation protection and the application of efficient and effective safeguards of nuclear material in third countries' (Article1). Focus is on:

- 'the promotion of an effective nuclear safety culture at all levels';
- 'the promotion of effective regulatory frameworks, procedures and systems to ensure adequate protection against ionising radiations from radioactive materials, in particular from high activity radioactive sources, and their safe disposal';
- the establishment of the necessary regulatory framework and methodologies for the implementation of nuclear safeguards';
- 'the establishment of effective arrangements for the prevention of accidents with radiological consequences as well as the mitigation of such consequences should they occur, and for emergency-planning, preparedness and response, civil protection and rehabilitation measures' and
- the promotion of international cooperation on nuclear safety issues. Community funding may take different forms, i.e. from projects and programmes to grants to cover operating costs and funding for twinning initiatives.

For the period 2007-2009, the Instrument concentrated on the Russian Federation and Ukraine, as well as Armenia and Kazakhstan. Countries in other regions are, however, eligible as well. The NSCI has a budget of EUR 524 million for the period 2007-2013.

Food Facility

In order to provide a rapid EU response to soaring food prices in developing countries, a Regulation establishing the Food Facility was adopted by the European Parliament and the Council on 16 December 2008 (Regulation (EC) No 1337/2008). The Facility is seen as a complement to the Union's current development policy instruments. Its primary objectives are to:

- encourage a positive supply response from the agricultural sector in target countries and regions;
- support activities to respond rapidly and directly to mitigate the negative effects of volatile food prices on local populations in line with global food security objectives, including UN standards for nutritional requirements
- strengthen the productive capacities and the governance of the agricultural sector to enhance the sustainability of interventions'(Article 2).

The total financial reference amount for the implementation of the Regulation over the period 2008-2010 is EUR 1 billion of which over EUR 550 million are channelled through international organisations (like WFP and FAO), EUR 200 million through non-state actors, EUR 60 million through regional organisations (e.g. the Economic Community of West African States) and EUR 165 million implemented through national budgets of beneficiary countries. The overall plan of action for the implementation of the Facility is provided in Commission Decision C (2009) 2185 of 30 March 2009. This Commission Decision also provides a list of eligible countries.[13]

Instrument for Stability (IfS)

The Instrument for Stability (IfS) was launched in 2007 as a follow up to the Rapid Reaction Mechanism of 2001. It was established following Regulation (EC) No 1717/2006 of the European Parliament and of the Council of 15 November 2006. Its specific aims are twofold: '(a) in a situation of crisis or emerging crisis, to contribute to stability by providing an effective response to help preserve, establish or re-establish the conditions essential to the proper implementation of the Community's development and cooperation policies; (b) in the context of stable conditions for the implementation of Community cooperation policies in third countries, to help build capacity both to address specific global and trans-regional threats having a destabilising effect and to ensure preparedness to address pre- and post-crisis situations' (Article 1).

The Instrument is implemented through (a) Exceptional Assistance Measures and Interim Response Programmes; (b) Multi-country Strategy papers, Thematic Strategy Papers and Multi-annual Indicative Programmes; (c) Annual Action Programmes; and (d) Special Measures. Projects under the Instrument focus on a wide range of issues. These range from support to mediation, confidence building, interim administrations, to strengthening the Rule of Law, transitional Justice or the role of natural resources in conflict. The Instrument allows the Union to finance crisis response projects worldwide.

The IfS has a budget of EUR 2.062 billion for 2007-2013, of which EUR 1,487 million (72%) for short-term crisis response and EUR 484 million (23%) for creating the conditions for the implementation of EU co-operation policies. Since the start of the Instrument, projects have been implemented in the following ACP countries: Central African Republic, Chad, DRC, Fiji, Guinea Bissau, Haiti, Kenya, Madagascar, Sierra Leone, Sierra Leone, Solomon Islands, Somalia, Sudan, Timor Leste, Uganda, Zambia and Zimbabwe.

Humanitarian aid

EU humanitarian aid has been provided through ECHO – the European Community Humanitarian Office that was created in 1992; since 2010 it is dealt with by the Directorate-General for Humanitarian Aid & Civil Protection. The European Consensus on Humanitarian Aid, signed by the Council, European Parliament and European Commission in 2007, is the comprehensive policy framework governing the European Union's humanitarian aid response. The Consensus outlines the common objectives, fundamental humanitarian principles (of humanity, impartiality, neutrality and independence) and good practices that the European Union as a whole pursues in this domain. Humanitarian aid operations are financed under the budget headings specifically devoted to humanitarian aid: the EC budget Title 23 for humanitarian aid and the allocation to ACP countries for humanitarian and emergency assistance under the EDF. Funding is provided for humanitarian aid, food aid, disaster preparedness and civil protection as well as the running costs of humanitarian aid operations. DG ECHO implements its mission by funding Community humanitarian actions through partners such as UN agencies, NGOs and international organisations. Table A.8.3 at the end of this Annex gives an overview of humanitarian aid provided by ECHO to ACP countries in the period 2001-2009.[14]

[13] According to the Commission Decision, the Food Facility covers the following ACP countries: Benin, Burkina Faso , Burundi, Central African Republic, Comoros, DRC, Eritrea , Ethiopia, Gambia , Ghana, Guinea, Guinea Bissau, Haiti, Jamaica, Kenya , Lesotho , Liberia , Madagascar , Malawi , Mali , Mauritania , Mozambique , Niger , Rwanda , Sao Tomé e Principe , Senegal, Sierra Leone, Somalia, Tanzania, Togo, Zambia, Zimbabwe..

[14] Adapted from ECHO Financial report 2006; ECHO Financial Report 2007; and ECHO Financial report 2009.

Macro-Financial Assistance Instrument

Originally, the Macro-Financial Assistance Instrument served as an intra-Community balance-of-payments support. In 1990, the Instrument was extended to third countries. It currently provides undesignated balance-of-payments support to partner third countries through (a combination of) medium/long-term loans or grants. It complements financing provided in the context of IMF and World Bank reform programme and is mobilized on a case-by-case basis to help beneficiary countries in dealing with serious, but generally short-term, balance-of-payments or budget difficulties. It is released on the basis of the fulfilment of economic and financial policy conditions set out in a Memorandum of Understanding agreed between the Commission and the authorities of the recipient country.

Since its inception, the amounts committed to the Instrument by the EU have fluctuated substantially, from the equivalent of EUR 350 million in 1990, EUR 1,178 in 1992, to EUR 392 million in 2001 and some EUR 101 million in 2010. In the period 1990-2010, 52% went to Central European and candidate countries, 19% to the Western Balkans (i.e. Albania, Bosnia and Herzegovina, and Serbia and Montenegro), 16% to republics of the former Soviet Union (i.e. Ukraine, Belarus, Armenia, Azerbaijan, Tajikistan, Kazakhstan, Georgia, Tajikistan, Kyrgyz Republic, Moldova, and the Russian Federation) and the remaining 13% to Mediterranean countries. An assessment of the Instrument was published at the request of the European Parliament in 2006.[15]

[15] See: http://edz.bib.uni-mannheim.de/daten/edz-ma/ep/06/pe381.367-en.pdf.

Table A.8.3: Budget implementation humanitarian aid in ACP countries, 2001-2009 (EUR mln)

	2001	2002	2003	2004	2005	2006	2007	2008	2009	Total
All Africa							2,0			2,0
Angola	9,0	12,0	8,9	8,8	2,0	3,0				43,7
Bahamas				0,5						0,5
Benin					1,1					1,1
Burkina Faso			0,6							0,6
Burkina Faso/Chad	2,6	0,2	2,0	12,0	14,0	14,5	30,5	30,0	34,0	139,7
Cameroun								2,0		2,0
Caribbean/Pacific	0,9	0,6	1,4		6,5	0,5	7,3	5,0	0,7	22,8
Central African Republic	1,0		1,0	0,5			8,0	7,8	2,0	20,3
Comores					1,1					1,1
Djibouti								1,4		1,4
Dominican Republic		0,2		1,6		0,3		0,3		2,3
DRC	35,0	38,1	44,0	40,0	38,0	43,0	42,5	45,6	45,0	371,2
Congo Republic			4,0	2,0	2,0					8,0
ECHO flight	8,4	8,4	8,4	9,0	6,5	7,0	7,5	8,0	8,5	71,7
Eritrea	7,0	1,8	1,3	1,0	4,6	6,0	6,0	4,0	3,0	34,7
Ethiopia	9,2	7,8	2,0	7,0	4,5	5,0	20,0	39,7	51,0	146,1
Gabon		0,3	24,0							24,3
Grenada				2,3						2,3
Guinea								1,3		1,3
Guinea Bissau						1,0		0,5		1,5
Haiti		0,4		11,2		0,2	4,5	16,0	7,0	39,3
Jamaica				1,2						1,2
Kenya	4,6	2,5		3,9	2,0	9,1	9,0	23,5	40,0	94,5
Liberia/Ivory Coast/Guinea	20,6	20,5	29,7	25,3	29,2	26,5	19,1	16,6	13,6	201,1
Madagascar	0,9	1,0		2,0	0,5		5,4	1,5	2,8	14,1
Malawi		1,5			5,0					6,5
Mali/Niger/Mauritania			0,8		8,3	12,0	0,2	2,0	1,9	25,3
Mozambique/Botswana	2,8					2,0	7,0			11,8
Namibia			0,1	1,0				0,4		1,5
Papua New Guinea					0,2					0,2
Regional Great Lakes						1,0				1,0
Regional Horn of Africa								40,6		40,6
Regional West Africa (incl. epidemics)						2,2	2,0	3,0	5,0	12,2
Regional drought preparedness							2,0			2,0
Regional drought decision						15,0		30,0	10,0	55,0
Regional Burundi/Tanzania	52,3	44,5	15,0	33,9	30,5	33,1	31,5	27,5	22,0	290,2
Regional South East Africa								3,5		3,5
Sahel							25,5	15,7	31,0	72,2
Senegal		0,8					1,1			1,8
Solomon island							0,6			0,6
Somalia	1,7	4,5	9,0	9,2	9,0	10,0	18,0	43,8	45,0	150,1
Southern Africa		30,0	25,0	2,0	1,8		5,8		5,5	70,1
St Vincent and Grenadines				0,8						0,8
Sudan	17,0	18,0	22,0	91,0	45,0	97,0	110,5	167,0	115,6	683,1
Suriname						0,7		0,4		1,1
Uganda		2,1	8,0	18,6	14,0	19,0	24,7	25,5	24,5	136,4
Zambia		3,0	5,0	2,0	3,5	2,2	2,0		1,5	19,2
Zimbabwe	0,5	2,0	13,0	15,0	15,0	12,0	30,2	25,0	25,0	137,7
Total ACP	**173,5**	**200,1**	**225,3**	**301,6**	**244,2**	**322,1**	**422,8**	**587,4**	**494,5**	**2.971,4**

Annex 9: The Article 8 political dialogue and what happens when it fails

Introduction

Democracy is part of the foundation of the EU. It is a *sine qua non* condition pertaining to any State that has acceded to or is applying for accession to the EU. The Treaty of Lisbon states in this respect that '(the) Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail'. Article
Article 21(1) of the Treaty on European Union furthermore states that '(the) Union's action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law'.

Title II of the Cotonou Agreement on the 'Political Dimension' – which covers the Articles 8 to 13 – and the Articles 96 and 97 of its Final Provisions have made politics a key element of ACP-EU relations.[1] As one of its 'most important innovations', the Agreement sought to ensure that the relationship between the partners would evolve into a mature political relationship which was to be in effect the third pillar of the partnership: aid, trade and the political dimension' (Vanheukelom et al (2006)). Title II, in addition to defining the *essential elements* and one *fundamental element* (governance) in Article 9, describes other elements which the parties consider important for the maintenance of a stable and democratic political environment (such as the principles of the market economy and the involvement of civil society and the private sector (Article 10) It commits the signatories to the Agreement to *'an active, comprehensive and integrated policy of peace-building, conflict prevention and resolution'* in Article 11 (Vanheukelom et al (2006)) and deals with 'questions of the coherence of Community policies' and their effects on the ACP in Article 12. Article 13 finally deals with a EU concern of a particular domestic political nature: migration and readmission policies.

Annex VII to the 2005 revision of the Agreement on the 'Political dialogue as regards human rights, democratic principles and the rule of law' moreover sets out detailed modalities for the Article 8 dialogue. The political pillar has been reinforced over the years, with the Union making human rights, democracy, the rule of law and good governance both explicit conditions and specific objectives of its aid.[2] This was not in isolation from general developments at EU level - such as the introduction of the Common Foreign and Security Policy in the Maastricht Treaty[3] and the European Security and Defence Policy in the Treaty of Amsterdam (Vetter (2006)) – and of course current events in the first decade of the new Millennium, including 9/11.[4] In turn, the political pillar has implications for aid under the EDF, which, as shown above, is

[1] The articles build on the human rights clauses that were introduced in the Lomé Convention of December 1989. A suspension mechanism in case of human rights violations came with Article 5 of the Lomé IV Convention of 1995, with Article 366 of Lomé IV bis providing that, except in cases of special urgency, consultations have to be organized prior to taking any action in the case of a suspected breach of this Article 5. The article provided the legal basis for withdrawing aid in case of human rights violations that was previously lacking e.g. when the EU ended aid to Uganda and Sudan (Laakso et al (2007), Laakso (2007) and (Zemelis (2011)). Article 96 of the Cotonou Agreement succeeded the above-mentioned Article 366 of Lomé IV bis.

[2] According to Broberg (2010), the entry into force of the Lisbon Treaty has meant that democracy has been given an even more important position in the Treaties in general and in the external policy of the European Union in particular.

[3] Article 130u of the Maastricht Treaty specifically states that Community policy in the sphere of development cooperation 'shall contribute to the general objective of developing and consolidating democracy and the rule of law, and to that of respecting human rights and fundamental freedoms'.

[4] In this respect, the Cotonou Agreement includes amongst others provisions concerning cooperation in countering proliferation of weapons of mass destruction, on the International Criminal Court, the fight against terrorism.

used for providing support for e.g. political, institutional, financial and legal reforms, public sector development, and capacity building of non-state actors.

The Netherlands has repeatedly underlined the importance of this political pillar, stating for example in 1999 that 'in line with international developments it would be politically important to include good governance as one of the essential elements of the new (Cotonou) agreement' (KST 42623 (1999)). In line with the importance attached to human rights in its own foreign policy, the Netherlands considered mainstreaming good governance as crucial for the effectiveness and sustainability of poverty alleviation initiatives at EU level.[5] More recently, the Netherlands underlined that it was important that possibilities for policy dialogue with the countries concerned were properly used by both Commission and EU Member States. Similar remarks were made in relation to the provision of general budget support.

This Annex aims to answer the following questions: (i) what is the political dimension and what is known of the effectiveness of the Article 8 dialogue? (ii) when are the Articles 96 and 97 invoked, what have been the measures taken and what is known of the results?

The Article 8 dialogue

Aims and intended characteristics

Article 8 of the Cotonou Agreement stipulates that the Parties to the Agreement 'shall regularly engage in a comprehensive, balanced and deep political dialogue leading to commitments on both sides'. The dialogue is to exchange information, foster mutual understanding and facilitate 'the establishment of agreed priorities and shared agendas' and to facilitate consultations and strengthen cooperation between the Parties within international forums as well as promote and sustain a system of effective multilateralism. It does not need a particular event to trigger the dialogue: it should be on-going, regular, systematic and wide-ranging in its content and scope and conducted in situ (Hazelzet (2012).

According to paragraph 4 of Article 8, this 'dialogue shall focus, *inter alia*, on specific political issues of mutual concern or of general significance for the attainment of the objectives of this Agreement'. It may deal with a broad spectrum of issues, such as the arms trade, excessive military expenditure, drugs and organised crime, cooperation strategies or ethnic, religious or racial discrimination as well as migration or governance. The dialogue shall also encompass a regular assessment of the developments concerning the respect for human rights, democratic principles, the rule of law and good governance'. As observed by ECDPM (2002d) the dialogue is 'about bringing issues out into the open, identifying solutions together through dialogue and actively supporting the promotion of human rights, processes of democratisation, the consolidation of the rule of law and good governance'. The Cotonou Agreement also created the possibility to associate representatives of civil society with the dialogue. Also representatives from ACP national parliament, the ACP Group and the ACP-EU Joint Assembly may take part as appropriate. Specific reference is made into the 2010 revision of the Agreement to the involvement of the African Union.

National Article 8 dialogues are pursued in a country-specific manner, with central Government being the prime interlocutor. Both Member States and EU Delegations play an important role in the process. The joint ACP- EU Council of Ministers adopted a set of practical guidelines for the dialogue in May 2003, followed by 'some relatively loose guidelines' (Vanheukelom et al (2006)) for applying Article 8 and 96 in 2005 in conjunction with the revision of the Cotonou Agreement. In practice, 'to a large extent the use of the article was left up to the initiative of actors on the ground' (Vanheukelom (2006)). Laakso et al (2007) observed that '(there) is no shared understanding even among EU actors about what constitutes Article 8 dialogue' and that the tool of regular political dialogue had not been used extensively or consistently, neither by the EU nor by the ACP states. Five years later, a Press release on the meeting of the ACP-EU Joint Parliamentarian Assembly of November 2012 seems to indicate that confusion between EU and ACP countries still prevails.[6]

[5] See for example KST 26352 (1997), KST 61952 (2002), KST 77370 (2004), KST 108425B (2007), KST 128498 (2009) and KST 32710-V-1 (2011).

[6] The Press release states: 'The political dialogue which the EU's External Action Service has with some ACP countries on the basis of article 8 of the Cotonou agreement met with criticism on the side of the ACP representatives in the

Actual conduct of the Article 8 dialogue

There is little if any systematic research into the actual working of the Article 8 political dialogue and whether it meets the aims set out in the Cotonou Agreement. Also Commission country evaluations do not add much[7] on this process that is largely taking place 'behind the scenes'.[8] Findings of the country evaluations that do report on this dialogue are variable. Some indicate that it has been weak or non-existent (e.g. Angola, Chad, Comoros, Congo, Eritrea, Ethiopia, Djibouti, Lesotho, Malawi, Senegal, and Tanzania), while others are more positive (e.g. in the case of Liberia, Rwanda, and, to a certain extent Uganda). Some of the factors that have contributed to low level of dialogue and limited results include:

- Governments are difficult to engage in political dialogue on key topics that it considers as internal matters (Angola, Congo, Eritrea, Ethiopia)[9] – or not (Botswana). According to Mackie et al (2010b), 'ACP officials often perceive the EU as exploiting political dialogue to discuss the conduct of ACP countries rather than allowing for open dialogue on political issues of concern to both'.
- High (Burkina Faso) or low dependency (Angola) on foreign aid and presence of other donors that do not put up political conditionalities with their aid.[10]
- The donor community was either not clear on political aspects or divided (Mozambique, Niger), with the dialogue moreover hampered by a lack of knowledge of the local political situation (Niger).
- Limited visibility of the EU (Congo) or absence of EU representative from the country (Comoros)
- Tension between political (e.g. human rights situation) and development agenda and continued support for macro-economic policies and reforms despite little progress on the governance or human rights side (Kenya, Zambia).
- Set up of dialogue mechanisms that focus mainly on technical matters (Uganda) or do not have the appropriate Government representation (Tanzania).

Interviews held during the country visits indicate that in Rwanda, the Article 8 dialogue involved the EU head of Delegation, EU ambassadors and Government and has focused on sensitive issues such as *Gacaca*, the International Criminal Tribunal for Rwanda, judicial reform and abolition of the death penalty. The adoption of a Media Reform Law, which was also advocated for by the Netherlands, is considered one of the highlights of the outcome of the dialogue. In its dialogue in Ethiopia, using the Cotonou Agreement, the EU Delegation managed to ensure that Ethiopian civil society organisations dealing with for example human rights, equality, and conflict resolution could continue to receive funding under the EU Civil Society Fund, despite more restrictive Ethiopian legislation.

Political Affairs Committee. They contested the one-sidedness, which characterizes the dialogue in their eyes as well as a lack of transparency in the proceedings and outcome… The EU External Action Service said that the dialogue should not be seen as punishment but instead as an attempt to find solutions to possible problems'. (Monday 26 November 2012).

[7] Evaluations mostly deal with *policy* dialogue as an effort to influence policies in specific sectors (e.g. those on Benin, Ghana, Jamaica, Lesotho, Mali, Niger, Seychelles). Likewise in the case of Burkina Faso, the quality of the *policy* dialogue is appreciated and judged as effective, facilitating the negotiation of broad multi-sectoral cooperation areas and of sector strategies in e.g. the water sector, energy, education and health. No information is provided in the evaluations on DRC, Mauritius, Namibia, Papua New Guinea, and Sierra Leone.

[8] According to Vetter (2006), '(the) discussion of a broader political agenda however generally remained reserved for the participation of all EU Heads of Missions. In ACP capitals where most EU Member States are represented, this sometimes led to monologue rather than dialogue meetings'. To remedy this lack of information, the EU Action Plan on Human Rights and Democracy of 2012 promises 'a review regarding best practice in applying Articles 8 and 96 of the Cotonou Agreement, including how to ensure follow up' to be completed in 2013 (Council (2012b)).

[9] According to Broberg (2010), '(although) this non-interference argument has been voiced during negotiations between the EU and a developing country,35 it seems that today there is hardly any doubt that the inclusion of a human rights clause in an international agreement does not conflict with the obligation not to interfere in the internal affairs of other States'.

[10] Along the same lines, Zimelis (2011) argues: 'External factors may also hinder the effectiveness of aid suspension. For example, China's 'no strings attached' aid to some ACP states may render EU aid suspension ineffective'. Likewise, Vanheukelom (2006) underlined that '(the) emerging involvement of non-traditional donors, such as China, will further influence the environment in which the EU and its partners give substance to the political dimension' of the Agreement'.

More specifically on human rights, the recent IOB Evaluation of Dutch support to human rights projects 2008-2011 (IOB (2013)) and the interaction between the Netherlands and the EU in Nigeria and Zimbabwe points at: (a) cooperation of EU Member States and EU Delegation when issuing a demarche or public statement on human rights violations, Dutch participation in the EU human rights working group as well as the annual local human rights dialogue in the case of Nigeria and (b) the cooperation between EU and the Netherlands in Zimbabwe on human rights issues and the Netherlands using the EU channel to address the protection of the human rights of lesbian, gay, bisexual and transgender (LGBT) individuals.

Despite these positive outcomes, perceptions on the way in which the EU Delegation conducts the Article 8 dialogue vary considerably. Interviewees' positions in for example Ethiopia are diametrically opposed as to whether the Delegation has indeed fully exploited its leverage for promoting democratisation and civil society interests by opting for a more diplomatic stand. At times, the EU Delegation is considered to 'punch below its weight', playing 'too low profile' with a more prominent role played by either one of the EU Member States or by the World Bank.[11] Secondly, interviews point out that the actual influence of the dialogue, which is often conducted *together* with Member State representatives, thus confirming the importance of a 'coherent and shared EU political agenda' and 'developing common implementation strategies for which both the Commission and the Member States take responsibility' (Particip GmbH (2011b)), has been modest.

An issue is finally, the relationship between the Article 8 dialogue and the dialogue attached to the provision of general budget support. Molenaers et al (2010) argue in this respect that the ineffectiveness of the Article 8 dialogue, which is primarily a European forum, undermines existing coordination mechanisms that also involve other important budget support donors. It also explains 'the desire of some donors to pull 'political' issues to the table of the policy dialogue' related to budget support.

When the dialogue fails

Article 9 and the essential and fundamental elements

The Article 8 dialogue also serves to prevent 'situations arising in which one Party might deem it necessary to have recourse to the consultation process envisaged in Articles 96 and 97'. These articles provide the legal basis for the suspension of the Agreement in cases where one of the parties feels that the agreement's essential and fundamental elements are not being respected and when regular political dialogue under Article 8 does not lead to the desired outcome. In essence the articles stipulate that formal consultations can be called when a breach of the essential elements and fundamental element of Article 9 is deemed to have occurred. These elements relate to:

- Respect for human rights and fundamental freedoms, democratic principles and the rule of law, in particular the presence of effective and accessible means of seeking legal redress, an independent legal system guaranteeing equality before the law, and an executive that is fully subject to the law (essential elements under the Agreement)
- Good governance, defined as 'the transparent and accountable management of human, natural, economic and financial resources for the purposes of equitable and sustainable development' (the fundamental element).[12]

[11] With respect to Ethiopia, the 2011 thematic evaluation of European Commission support to respect of Human Rights and Fundamental Freedoms, observed that '(in) general, policy dialogue under the Article 8 has not allowed for an in depth discussion on human rights or even on governance matters. As a result, benchmarking or targets for human rights have not been discussed or agreed. The key factor for an effective dialogue is again the political backing at EU Member States' level and a joint EU/MSs policy: without a political engagement it is difficult to have a proper implementation of the programme or EIDHR projects' (Particip GmbH (2011b).

[12] The formal difference between essential elements and fundamental element resides in the fact that non-compliance with the principle of good governance does not fall under the Article 96 procedure but under the specific procedure of Article 97. On these key features of the Agreement, Zemelis (2011) states: 'The potential problem however, is the lack of a consensus on the definitions of the essential and fundamental elements included in the Cotonou Agreement. For example, no single constitutional framework of democracy exists; legitimate democracies can and do take many forms. What concept of democracy should the EU promote and defend via political conditionality in the ACP states? Moreover, human rights and democracy principles should ideally align with the EU's and individual member-states'

Consultations under the Articles 96 and 97

The Articles 96 and 97 provide the basis for the initiation of consultations. The rationale for initiating Article 96 consultations is to remedy problems related to a breach of the essential elements. Prime objective is to 'agree on measures to improve the situation in the country concerned' (Hazelzet (2005)) and to find a common solution to the political difficulties encountered by one of the parties. Article 96 consultations should only be applied once the parties have exhausted all possible options for dialogue[13], except in cases of special urgency (i.e. 'exceptional cases of particularly serious and flagrant violations of one of the essential elements (...), that require an immediate action' (Article 96)). Annex VII adds moreover that the consultations can be skipped 'when there is a persistent lack of compliance with commitments taken by one of the Parties during earlier dialogue, or by failure to engage in dialogue in good faith'.

In case the consultations do not lead to the desired outcome[14], they can be followed by the application of 'appropriate measures'[15] that should be 'proportional to the violation' and 'in accordance with international law'. Appropriate measures are considered as a 'measure of last resort' (Laakso et al (2007)). The political dialogue should ensure that such appropriate measures are not announced unexpectedly and should continue during the application of such measures.

Appropriate measures can be negative but also be positive and, though it is not clearly stated, should avoid penalizing or harming the population. In cases where the EU deems that the appropriate measures are insufficient, it can decide, though this is generally in line with UN Security Council resolutions, to impose further sanctions unilaterally in the framework of its Common Foreign and Security Policy[16] or to use other instruments to influence fundamental elements in ACP countries.[17]

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foreign policies. In reality, it is possible that the essential principles compete with other national and EU-wide goals, thus rendering the conditionality clause less effective'. According to Santiso (2002b), '(the) inclusion of good governance into the agreement proved to be a particularly controversial issue. As a compromise solution, the EU and the ACP agreed to include good governance, .. as a 'fundamental element' of the partnership, subject to regular monitoring. The commitment to good governance does not possess the legally binding nature of the essential elements and failure to uphold it does not lead automatically to the initiation of the suspension mechanism enshrined in the convention'. According to Schilder (2000), '(on) the side of ACP states, the concept of good governance (was) quite clearly regarded as an intrusion on the sovereign rights of national decision-making and as introduction of a new form of conditionality in development cooperation. For the ACP side.. there did not seem to be a strong incentive to make good governance an essential element of a new framework agreement'.

[13] The importance of this aspect was emphasised by the *ACP-EU Joint Parliamentary Assembly in its 2005-resolution* on the ACP-EU political dialogue 'stressing the need to utilise all possibilities that Article 8 offers for dialogue on the essential elements and fundamental principles of the Cotonou Agreement'. The Assembly stressed 'the preventive nature of political dialogue under Article 8 of the Cotonou Agreement, which will foster mutual trust before a crisis breaks out and consultations are required under Articles 96 and 97 of the Cotonou Agreement'. This position was repeated in the Assembly's Luanda declaration of December 2009 on the Second Revision of the Cotonou Agreement.

[14] There is also a provision for dealing with 'cases of special urgency', i.e. particularly serious and flagrant violations of an essential element. The other party is then allowed to take immediate 'appropriate measures'. These measures must be revoked as soon as the grounds on which they were taken cease to apply.

[15] The EU does not label the appropriate measures foreseen in Article 96 as 'sanctions', and keeps this practice legally separate from CFSP measures. In EU terminology, the term sanction is reserved for those measures decided under the Common Foreign and Security Policy (CFSP), which typically encompass arms embargoes, and targeted sanctions like visa bans and the freezing of financial assets (Portela (2007)).

[16] In the new Millennium this happened in e.g. the cases of Ethiopia/Eritrea (2000), Liberia (2001) and Zimbabwe (2001). 'Guidelines on implementation and evaluation of restrictive measures (sanctions) in the framework of the ECFSP' were adopted in December 2003. The 'Basic Principles on the Use of Restrictive Measures (Sanctions)' of 2004 is the first programmatic document on EU sanctions policy (Kreutz (2006)). EU sanctions can be divided into: Arms embargoes; Trade sanctions; Financial sanctions; Flight bans; Restriction of admission; Diplomatic sanctions; Boycotts of sport and cultural events and suspension of co-operation with a third country.

[17] The EEAS report 'Human rights and democracy in the world. Report on EU action July 2008 to December 2009' and its Annual Activity report for 2011 refer in this respect to the appointment of EU special representatives (e.g. Somalia, Sudan, Great Lakes region), advisory and assistance mission for security reform (DRC), Election Observation Missions (Angola, Rwanda, Guinea Bissau, Ghana, Malawi, Mozambique in 2008-2009 and South Sudan, Niger, Zambia, Nigeria, Chad, DRC and Uganda in 2011), Election Expert Missions (Benin, Liberia, Ivory Coast, Central African Republic, and Gambia (2011)), funding for electoral assistance projects (Cote d'Ivoire, Malawi, Tanzania, Zambia, Togo, Comoros,

The consultation process under Article 96

In terms of process, decisions on whether to invoke Article 96 are preceded by consultations in the ACP country, involving EU Delegation and Member States present. This is followed by talks in geographical working groups and the ACP working group in Brussels, with the gravity of decision-making in Brussels and the European capitals. The ACP working group discusses and at times amends a Commission proposal for a Council Decision and prepares for decision-making at the level of COREPER and the Council of Ministers. Also in this case, decision-making at Council level is by consensus rather than voting. Once the ACP country has accepted that consultations should take place, a meeting is organised in Brussels; if it refuses, the EU can move directly to the adoption of 'appropriate measures'. In the consultations, the EU was until recently represented by the 'troika' – i.e. a group composed of the Foreign Affairs Minister of the Member State holding the Presidency of the Council of Ministers, the Secretary-General of the Council of the European Union, who also held the post of High Representative of the Common Foreign and Security Policy, and the European Commissioner for External Relations, with the latter position currently taken up by the HRVP. On behalf of the ACP country, representatives from the country participate, at times accompanied by a number of friendly countries of its choice, regional organisations such as the African Union and members of the ACP Secretariat. Attempts are made to agree on a list of commitments and a timetable to fulfil them. Consultations are to start no later than 30 days after the invitation is issued and are to be completed within a maximum of 120 days. When the consultations are closed the EU assesses whether the country has complied with the commitments it has entered into. Formal completion of the consultations is at the initiative of the Commission on the basis of an information note and the adoption of a letter to the country by the General Affairs and External Relations Council.

Cases of consultations and appropriate measures

Table A.9.1 shows that in the period 2000-2010 Article 96 consultations were held with 12 ACP countries, in several instances more than once.[18] These were always called in response to coups d'état[19] and often, but not always, in response to a sudden, drastic worsening of the human rights situation (an exception being the case of Togo) and in response to flawed election processes and violations of other fundamental freedoms. The drastic deterioration of the human rights rather than the absolute level of these essential elements is decisive even though this may mean that the EU is rather late to intervene.[20] There have been no cases where human rights violations were the only motive for holding consultations.

Guinea Bissau, démarches (e.g. to promote the universality and integrity of the Rome Statute (Cameroon, Cape Verde, Haiti, Jamaica, Mozambique, St. Lucia)) and public declarations (frequently on topics ranging from the protection of human rights defenders, illegal detention, the death penalty, child protection, refugees and asylum seekers, to the right to a fair trial, and elections), support for NGOs through the European Instrument for Democracy & Human Rights, structured human rights dialogue with the African Union, crisis management operations under the Common Security and Defence Policy (Chad, Congo), (European External Action Service (2010) and (2011)).

[18] No ACP State has been called by the EU for consultations under Article 97 of the Cotonou Agreement. Though corruption was one of reasons for Liberia/EU consultations, but these were conducted under Article 96. Procedures to be followed in relation to Article 96 and 97 are annexed to an internal agreement between the representatives of governments of the Member States of December 2000. An update is provided in Council (2008n).

[19] Del Biondo (2011) observes in this respect that '(in) the case of a coup d'état, the EU has been consistent: each clear-cut coup d'état in the ACP region has been followed by EU sanctions. Therefore, sanctions are only imposed when the situation leaves little room for interpretation, such as in cases of democratic breakdown, while for human rights violations, a "cut-off" point is more difficult to agree upon'.

[20] According to Laakso et al (2007), 'the EU tends to be relatively patient towards continuing problems' in the areas of human rights, democracy and rule of law.

Table A.9.1: Article 96 and Article 366a consultations 2000-2010

	Coup d'état	Democratic failure and flawed elections	Respect for human rights and fundamental freedoms	Adoption of appropriate measures
Central African Republic	2003			2003
Cote d'Ivoire	2000	2001		2000; 2001
Guinee	2009	2004		2005; 2009
Guinea Bissau	2003			2004
Fiji	2000; 2007			2001; 2007
Haiti		2000		2001
Liberia		2001	2001	2003
Madagascar	2009			2009
Mauritania	2005; 2008			2006; 2009
Niger		2009		2009
Togo			2004	2004
Zimbabwe		2001		2002

Sources: http://www.consilium.europa.eu/policies/eu-development-policy-%28ec-wbesite%29/main-themes/cotonou-partnership-agreement/consultations-under-articles-96-and-97-of-cotonou-agreement/policy-archive?lang=en; Commission (2005i); (2007b); (2009a); (2010v); and Commission (2011r) and Bradley (2005).

Analysing all potential cases of suspension of aid in the period 1989 and 2001 (Hazelzet (2005) concludes that 'norms tended to trump interests' and that '(as) the level of human rights violations increased, the likelihood that the EU would suspend its cooperation increased as well, regardless of economic or strategic interests in the country concerned'. According to the same source, the instrument was used selectively: when the political situation was precarious, such as during a civil war, or when a country was on the verge of a peace agreement, 'the EU usually decided to walk the road of silent diplomacy, possibly with the carrot of a signature on a country strategy paper in hand Hazelzet (2005)).'[21] This implies that it has not been invoked in other cases of serious breach of the essential and fundamental elements – examples include Sudan, Eritrea and Ethiopia. Moreover, the EU has invoked Article 96 only whenever it considered that it stood a reasonable chance of influencing the leadership responsible for the breaches.[22] 'With difficult partners, it is better to look for other ways of influencing human rights, democracy, rule of law and good governance' (Laakso et al (2007)).

That only the EU has invoked Article 96, has created the perception on the ACP side that it is primarily a sanction article – which is judged to be applied somewhat arbitrarily at times.[23] Back in 2005, for many ACP observers, the distinction between the regular dialogue under Article 8 and the ad hoc, one-off dialogue under Article 96 was 'somewhat blurred' (Macky and Zinke (2005)). On the other hand, according to Mbangu (2005), the negative image of Article 96 made the EU 'reluctant to open consultations at an early stage, in situations of deteriorating respect for democracy and human rights'. The initial fear of some ACP

[21] According to Brummer, K. (2009), 'the EU is obviously much more inclined to use sanctions in order to foster the development and consolidation of democracy and the rule of law as well as the strengthening of respect for human rights and fundamental freedoms. Conversely, the preservation of international peace and security – here understood as enacting sanctions in response to violent conflicts or wars – seems to receive less attention'. According to Laakso (2017), '(if) only humanitarian aid is left, there is little with which to put pressure on the authorities of the country concerned'.

[22] Brummer (2009) interprets this as follows: 'the EU's sanctions policy largely corresponds with neo-realist predictions. '(when) taking action is cheap, that is, when the target is a weak or isolated state with limited or no capacity to reciprocate, sanctions are imposed'. Another reason why the EU preferred to use political dialogue instead of invoking Article 96 consultations and appropriate measures may well have been its security interests, with countries like Ethiopia (others include Kenya and Nigeria) identified as 'key partners of the West in the fight against terrorism and in maintaining peace in their respective regions by means of diplomacy and peacekeeping troops' (Del Biondo (2011)). Economic interests are less important as an explanatory factor 'but do play a role in Nigeria, which is an important oil producer' (Del Biondo (2011)).

[23] See Macky and Zinke (2005), Hazelzet (2005), Nwobike (2005) and Laakso et al (2007). According to Mbangu (2005), this negative image of Article 96 'makes the EU reluctant to open consultations at an early stage, in situations of deteriorating respect for democracy and human rights'.

states that the Article 8 dialogue was merely a prelude to Article 96 consultations[24] seems to have been mitigated somewhat over time. According to Laakso et al (2007), the ACP countries have learned to use the Article 96 consultation instrument to their advantage 'and have come to see the benefits of Article 96 as a window of opportunity'.

Table A.10.1 shows that in all cases, consultations have led to the application or continuation of 'appropriate measures'. Appropriate measures are generally adopted for one year; this period can be renewed as has been the case for e.g. Fiji, Haiti and Zimbabwe. Renewal may be accompanied by the same measures, reinforced or reduced measures. A Council decision may also terminate them before their 'expiry date'. The EU conducts regular monitoring, including the dispatch of missions to the country, to assess progress in implementation. Appropriate measures include specific reference to EU concerns that remain unaddressed and that need to be addressed before the measures can be lifted (see Text Box A.9.1) – .i.e. 'long and – taking into account the timeframe – sometimes unrealistic lists of issues where the ACP government concerned needs to improve its performance' (Laakso et al (2007)).

Text Box A.9.1: Obligations to be fulfilled for a resumption of normal relations

The obligations may focus on a variety of elements related to:

- democratic processes, like the return to constitutional order and the organization of transparent, fair and free parliamentary and presidential elections, respect for pluralism in the media, freedome of action for political parties (e.g. Fiji, Haiti, Mauritania, Cote d' Ivoire, Zimbabwe, Guinea Bissau,Togo, Guinee, Liberia, Madagascar, Niger)
- the establishment of a reconciliation commission (Cote d' Ivoire, Central African Republic, Togo, Liberia)
- human rights (e.g. the establishment of an independent human rights commission in Mauritania, Liberia and Togo)
- reform of the justice sector and independency of the judiciary (Mauritania, Liberia, Fiji)
- broader governance issues such better economic and budgetary statistics (Mauritania), addressing corruption and a (commitment to) public financial management reform (Guinea Bissau, Central African Republic, Liberia, Niger, Fiji)
- neutrality of or civilian control over the armed forces (Cote d' Ivoire, Guineau Bissau, Togo).

Different types of appropriate measures used and their success

Table A.9.2 gives an overview of the appropriate measures and other steps taken for the above-mentioned countries and shows that the character of these measures has been variable. It is worth recalling that in addition to the appropriate measures, the EU, may adopt sanctions within the framework of its Common Foreign and Security Policy – an obvious case is Zimbabwe (Portela (2007)).

[24] In the negotiations on the Cotonou Agreement, ACP countries were concerned that the lack of clear guidance on how and when to proceed from the Article 8 dialogue to Article 96 consultations, how and when such obligatory consultations would result in 'appropriate actions' and what such unilaterally defined actions would entail (Vanheukelom et al (2006)). There was a fear that this would increase conditionality and would be implemented inconsistently (Laakso (2007), Vanheukelom et al (2006)). This is likely related to the fact that the Agreement reflects a compromise following sensitive negotiation on the political dimension (Holland (2002)). In the 2005 revision, a provision was incorporated for 'intensified' political dialogue before moving to Article 96 consultations. Moreover, the dialogue was to be more formal and systematic and agreement was reached in the negotiations on the revision of 2005 on more explicit and binding rules and regulations for Articles 96 and 97 that 'sought to create more transparency and predictability in the decision making process about moving from the political dialogue to consultations under both articles' (Vanheukelom et (2006)).

Table A.9.2: Appropriate measures following Article 96 consultations (2000-2009)

Appropriate measures and other steps	Fiji (2000)	Ivory Coast (2001)	Liberia (2001)	Haiti (2001)	Zimbabwe (2002)	Central African Republic (2003)	Guinea Bissau (2004)	Togo (2004)	Guinee (2004)	Mauritania (2005)	Fiji (2007)	Mauritania (2008)	Guinee (2009)	Madagascar (2009)	Niger (2009)
Full or partial suspension of on-going projects through Government and budget support				X	X	X				X		X		X	
Conditional design and implementation of new projects	X												X		
Continuation of on-going projects (outside government)	X								X	X				X	
Aid disbursement to focus on social sectors and interventions aimed at return to democracy and improved governance		X				X		X	X	X	X	X			X
Redirection of (part of the) EDF budget to social sectors and direct support to population				X	X				X					X	
Conditional (gradual, partial) resumption of aid		X				X	X						X		X
Specific attention for support for democratic transition			X			X		X	X				X		X
No notification of new EDF budget				X	X										
Conditional notification of new EDF budget	X	X	X	X					X						
Conditional signature, design and/or implementation of new EDF					X					X	X				
Measures to avoid impact on the population, humanitarian and emergency aid, aid through NGOs not affected	X		X		X				X	X		X	X	X	X
Continuation of regional interventions and trade	X		X								X				
Selective continuation of regional interventions				X	X				X					X	

Analysing the application of the 'appropriate measures', different sources have concluded that[25]:

- EU sanctions tended to be harsher for more serious human rights violations, often despite the economic importance of the country concerned.
- There are has been no differentiated implementation depending on the economic or political interests of the EU vis-à-vis the ACP countries concerned. Former colonial powers did not prevent their ex-colonies from being invited to consultations (Laakso et al (2007)).
- Former colonies of EU Member States were, in general, likely to be subject to harsher sanctions in response to human rights violations than countries that had not been colonies'. However, this was different for non- French and non-British colonies which were sanctioned more severely, indicating 'that those punished more harshly found themselves relatively undefended in the Council by their former colonisers, whereas France and, to a lesser extent, Britain, made efforts to protect their former colonies from harsh sanctions.'

Success of the measures taken, defined in terms of sufficient progress in addressing the reasons for which the dialogue was initiated and for the EU to resume aid has been divers. Factors that have contributed to this success have included in particular the following[26]:

- The selective use of the tool and the timeliness of initiation of the Article 96 consultations. Consultations are called only when the EU believes that it stands a reasonable chance of influencing the leadership in breach (this is referred by Laakso et al (2007) as intended incoherence[27]).
- The commitment of the authorities of the ACP country: If there is no political will, Article 96 is of little or no use.
- The application of appropriate measures that combine carrots, making sure there is an interest in cooperation with the EU such as the gradual resumption of aid provided that certain conditions are met as happened for example in the case of Guinea Bissau, and sticks.

[25] See Hazelzet (2005), Laakso et al (2007) and Cuyckens (2010),
[26] Mbangu (2005), Laakso et al (2007), Portela (2007), Cuyckens (2010) and Vines (2012)
[27] Del Biondo (2011) interprets this differently and observes that 'Sanctions are only imposed on weaker countries where the EU has no important security or economic interests and which have limited capacity to reciprocate, such as Sub-Saharan Africa.

- The extent to which the country depends on EU aid, with more EU leverage when this dependency is high.
- Coherence in the actions taken by the EU as a whole and by the individual Member States[28], with the Commission generally only proposing the use of Article 96 when it is sure that Member States will support it (an exception being the case of Corte d'Ivoire in 2004). Dissenting opinions, especially at local level, can erode the effectiveness of the EU approach as happened in Guinee.
- The involvement of 'friendly countries' or 'ACP peers', neighbouring countries and regional organisations, including the African Union and for example ECOWAS in the case of Guinea Bissau
- Clear identification of the concrete violations of the essential elements
- Clear identification of the steps that need to be taken by the country and the adoption of positive measures by the EU to assist in achieving these steps.
- Continuation of political dialogue during and after the Article 96 procedure.

At the same time, it has been realised that consultations remain ill-suited to provide for lasting solutions to deep-rooted instability in weak states.

[28] Though in comparison with other international sanctions, notably those imposed by the UN, non-compliance with EU measures is infrequent (Portela and Raube (2011)), in the case of Guinea, the EU adopted 'appropriate measures' while at the same time, the former colonial power, France, increased its bilateral aid to Guinea, reducing the impact of the measures.

Annex 10: Trade & the Economic Partnership Agreements

Motivating the need for changes in trade regime

Starting with the Yaoundé Convention of 1963[1], agreements between the ACP countries and the EU have covered trade. This was not a great success[2] - the unilateral preferences granted under the Lomé Agreements, combined with substantial financial support under the EDF 'did not, however, kick start economic development in ACP countries' (Meyn (2008)). When excluding South Africa, the EU's main ACP trading partner, there was '(remarkably) little fluctuation and hardly any growth .. in total values traded' between the EU and the ACP countries (Allen (2002)). The ACP share in European imports had gone down from close to 8% in 1975 to 3-4% in 2000, mainly reflecting the 'trade dilemma of the LDCs' that accounted for 39 of the 79 ACP countries (Borrmann et al (2005)).

Moreover the special trade regime with the ACP had turned WTO and GATT incompatible. The problem with the Lomé arrangements was that they discriminated between ACP and non-ACP countries of similar levels of development. As a consequence, relatively rich countries such as the Bahamas receive a better treatment than poorer ones like India. This discriminating policy had been made possible by a GATT waiver to the EU of 1994 that was valid until 2000.

Against this background, the EU and the ACP agreed in the Cotonou Agreement to alter the trade regime by negotiating WTO-compatible, regional Economic Partnership Agreements[3] that would cover trade in both good and services and the handling of ''behind the border' issues, such as competition, government procurement, intellectual property, and trade facilitation' (Meyn (2008)). In the meantime, existing, non-reciprocal Lomé trade preferences were extended to 31 December 2007.[4] Key in this respect is Article 34 of the Cotonou Agreement referring to 'enhancing the production, supply and trading capacity of the ACP countries as well as their capacity to attract investment (...) strengthening trade and investment policies and (...) improving the ACP countries' capacity to handle all issues related to trade'. The emphasis of a region-to-region approach had already been outlined in Article 1 of the Agreement which emphasized encouragement of and support for '(regional) and sub-regional integration processes which foster integration of the ACP countries into the world economy in terms of trade and private investment'.

The importance of the EPAs

The EU perceived the EPAs 'as agreements intended to consolidate existing regional integration initiatives within Africa, with the objective to help facilitate the gradual integration of African countries into the global economy' (Mackie et al (2010a)). The main objectives of the EPAs are (Laport (2007)):

- *Reciprocity*: The main objective of EPAs is the establishment of a free trade area through the gradual elimination of trade restrictions. This is required to make the EPAs WTO-compatible, in line with Article XXIV of the General Agreement on Tariffs and Trade. Liberalisation schedules are central to the EPAs but countries are allowed to exclude some products from liberalisation in their market access offer.

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[1] In the Lomé Convention they concerned in particular: (a) adopting a system of non-reciprocity; (b) giving ACP countries greater access to the common market; (c) redefining the rules of origin; (d) granting a special protocol regulating sugar and (e) providing a special treatment for beef, rum and bananas. For more details on the trade provisions of Lome IV and the links with GATT and WTO see Huber (2000).

[2] See e.g. Solignac Lecomte (1998), Allen (2002), Hoestenberghe and Roelfsema (2006), Laporte (2007), Morrissey and Zgovu (2009). According to European Parliament, OPPD. (2011), '(the) extensive funding and preferential trade regime accorded by the EU was de facto a failure because it proved unable to effectively alleviate poverty or secure sustainable development in the ACP region'.

[3] The basis for this new trading regime is found in Cotonou Agreement chapter 'New trading arrangements' (Articles 36 to 38) under Part Three, Title II (Economic and trade cooperation).

[4] The EU and ACP obtained a special waiver from WTO rules with other WTO members in 2001 to allow EPA negotiations to continue until the 31st of December 2007 when the Cotonou trade regime would legally expire.

- *Development-orientated*: The aim is the promotion of sustainable development and poverty reduction by helping the integration of ACP countries into the world trading system and supporting their own regional economic integration.[5] The aid provisions are part of the EPAs in recognition of the fact that changes to the trade regime will entail certain costs for the ACP in the short to medium term.[6] They are also there to ensure that resources are made available to assist ACP countries in taking advantage of opportunities stemming from implementation of the agreements – access to new markets in particular. 'The commitment to development-oriented EPAs has been reiterated on numerous occasions across the range of EU institutions, including through communications by the European Commission (EC), resolutions of the European Parliament and in the EU Council' (Bilal et al (2010)).
- *Regionally-based*: The six ACP regional groupings that are used as a basis for negotiations are intended to strengthen regional integration as a first step towards integration into the world economy. At the same time, the possibility of concluding agreements with single countries in exceptional cases is not ruled out.
- *Differentiated*: EPAs should allow sufficient flexibility, provide special and differential treatment to take the different levels of development of the contracting parties into account . In particular, LDCs, small and vulnerable economies, landlocked countries and small islands should be able to benefit from special and differential treatment.

Dutch views on trade and EPAs

Though traditionally favouring world-wide trade liberalisation, especially for LDCs, as opposed to regional free trade agreements with groups of ACP countries (KST 35637 (1999))[7], the Netherlands finally went along with the EPA system. It considered that the conditions that it had set were largely met in the Cotonou Agreement.[8] In 2009, Koenders articulated that the EPAs show demonstrate the following characteristics (Koenders (2009)):

- Building on and strengthening existing regional cooperation making '(improved) regional integration .. an important aspect of the development dimension of the EPAs
- Clear asymmetric liberalization – 'EPAs should grant all ACP countries full access to the European market'. ACP countries on the other hand 'should .. be allowed—if they so desire—to exempt a significant part of imports from the European Union from their liberalization schedules and opt for long transitional periods for other sensitive import products'.
- Well-defined trade defense instruments. 'ACP governments should have sufficient scope for (temporarily) changing the agreed import regime if there is a real chance that EU products would flood their markets, to the detriment of local producers'.
- Improved rules of origin to prevent ACP countries from making full use of their preferential access to the EU market.
- A broader scope for cooperation, with the Dutch position being 'that agreements about services and trade related "Singapore issues" (procurement, trade facilitation, investment, competition) can contribute to economic development in the ACP countries' depending on whether the ACP countries decided to include these elements.

The EPA negotiations

Officially launched on 27 September 2002, the EPA negotiations have been structured around two main phases. The first phase of the negotiations, extending until September 2003, took place between the

[5] EPAs 'are intended to be development-oriented trade arrangements to foster development and economic growth in ACP countries which will ultimately contribute to poverty eradication' (Bilal and Braun-Munzinger (2008))
[6] E.g. in relation to institutional implementation of new rules or the adjustment of economic operators to the new regulatory framework.
[7] In 2000, it was stated that 'het opzetten van regionale handelszones zal wel tijd kosten en het nut ervan is te betwijfelen. Als er niets van terecht komt zal dat niet door Nederland betreurd worden (KST 45662 (2000)).
[8] Conditions were that (a) the 'development dimension' of the EPAs came first; (b) the asymmetric character of the agreements would be maintained and (c) account was taken of the diversity of the ACP countries and the needs of the LDCs in particular.

Commission and the ACP Group as a whole. The objectives were to define the format, structure and principles for the negotiations. After this initial phase of negotiations (consisting mainly in exchange of views and clarifications from both parties) at the all ACP Group level with the EU, a second phase of negotiations started at the regional level, in view of concluding regional EPAs.

At an initial stage the EU supported the creation of new EPA regional entities shaped around specific regional economic groupings in existence at the time, i.e. the African Customs Unions (WAEMU, CEMAC, SACU and the EAC). In the end, the ACP decided to negotiate EPAs under 6 distinct regional groupings:

- the Southern African Development Community (SADC)
- the Economic Community of West African States (ECOWAS)
- Central Africa (CEMAC)
- Eastern and Southern Africa (ESA)
- the Caribbean Community (CARICOM) and
- the Pacific.

By late 2007, faced with the legal expiry of the Cotonou trade regime and the WTO waiver that covered it, the EU and ACP decided to go for temporary, WTO compatible 'interim agreements' to secure ACP access to EU markets (Lorenz (2012)) and allow wider EPA negotiations to continue without legal challenge from other WTO members. Several interim agreements, that only cover trade in goods, were initialled with individual countries rather than full ACP regions, i.e. a bilateral approach that 'is clearly at odds with one of the key objectives of the EPAs, which is to build on and reinforce regional integration' (Bilal and Braun-Munziger (2008)) leading Lui (2008) to question 'whether up to now the EPA negotiation process has been hampering rather than supporting integration processes'. The signing of such bilateral agreements with non-LDCs such as Côte d'Ivoire, Ghana and Cameroon meant that they these countries did not have to fall back 'to the less generous trade preferences under the EU's Generalised System of Trade Preferences' (Busse (2010)). While the intention is to come to regional agreements, in the case of West Africa, Ghana and Côte d'Ivoire signed two different EPA texts, both of which invited other ECOWAS countries to join them. Thus, even if all the remaining ECOWAS countries joined either Ghana or Côte d'Ivoire, the region would still be divided by two EPAs' (Meyn (2008)).

Negotiations have continued after 2007, but progress remained slow[9] and none of the six regional negotiations has been closed. While in e.g. the SADC and West Africa regions, negotiations have been taking place more regularly, in others engagement was often intermittent and the rhythm of negotiations slower, in particular after 2009. In addition, as a result of the increasingly long time period between reaching the interim deals and their signature and application, some ACP regions identified issues in their existing interim EPAs on which negotiations were re- opened. All in all, negotiations have advanced only sporadically. In fact, according to Mackie et (2010b), '(the) EPAs have become a divisive force between Europe and the ACP and also between African countries' which has weakened rather than strengthened the economic relationship between the two sides. That the 'EU has yet to formulate any specific concessions or plans to move forward and get the negotiations out of the doldrums' did little to address the 'severe political repercussions for relations between the EU and the ACP, especially Africa'.

Main reasons for problematic EPA negotiations

According to Koenders (2009), '(in) general, it could be argued that it was probably overambitious to assume that comprehensive regional free trade agreements could be agreed with 77 diverse and relatively poor countries with limited negotiating capacity within a matter of a few years'. Factors that have contributed to the delays include[10]:

[9] According to Mackie et al (2012), 'the process of trade negotiations between EU and African regional groupings 'has been long and acrimonious, missing deadlines and threatening to contaminate broader Africa-EU relations'.

[10] See for example Szepesi and Bilal (2003), Borrmann et al (2005), ECDPM (2006c), (2006d), (2006e) and (2006f), Hoestenberghe and Roelfsema (2006), Bilal and Braun-Munzinger (2008), Meyn (2008), Bilal and Stevens (2009), Koenders (2009), Makhan (2009), Fontagné et al (2009), Busse (2010), Mackie et al (2010a), Reisen (2011), Olivier (2011), Piebalgs (2012), Lorenz (2012).

- From the start of the negotiations, there was a lack of common understanding and approach on the new trading agreement: 'European Commission and ACP countries did not share the same vision of what future EPAs may contain' (European Parliament, OPPD (2011)). According to Meyn (2008), 'the major difference between ACP countries' reading of the development component and that of the Commission is therefore material: while the former would like to see a binding commitment to additional funding for the planned reforms, the latter would like to keep additional funding voluntary but make the afore-mentioned reforms binding'. Moreover, ACP countries doubt whether the EPAs would indeed serve their interests: (i) access to European products in ACP countries could harm domestic producers in a range of sectors. In particular, small and medium-sized firms could be at a disadvantage, because they lacked advanced technologies and the option of economies of scale; (ii) there are few direct gains from exports to Europe which are mostly in the form of natural resources or unprocessed agricultural commodities; (iii) cutting off import tariffs on European products would result in considerable revenue losses – while 'tariff revenue compensation with aid money was not on the cards' (Koenders (2009)); [11] (iv) most ACP countries were reluctant to incorporate services into the EPAs focusing on trade facilitation and technical support instead. Busse (2010) refers in this respect moreover to an 'enormous trust gap in the negotiations'.
- The lack of institutional and technical capacity on the ACP side to conduct negotiations and coordinate member states of the regional groupings concerned. This resulted in 'asymmetries in negotiating capacity' between the two groups of countries - coupled with insufficient political leadership and different national commitments. According to Meyn (2008), 'with the exception of the Caribbean, none of the regions was in a position to negotiate collectively' while '(low) levels of trade integration and divergent economic interests .. complicated the formulation of a common negotiation position'. According to Makhan (2009), 'the limited capacities for trade policy for many of them, which have not been sufficiently and systematically addressed so far by policy makers, including the EU' – this contributed 'to the Community (i.e. the Commission and Member States) (playing) a dominant role in shaping the EPAs and their elements'.
- With one exception[12], '(the) regional groupings within which African countries chose to negotiate their respective EPAs did not match the contours of the formally recognized regional economic communities .. to which they (belonged)'. Mackie et al (2010a) refer in this respect to 'a complex web of regional organizations, of which only eight are officially recognised by the African Union, which has led to 'costly competition for resources, conflict and inconsistencies in policy formulation and implementation, unnecessary duplications of functions and efforts, fragmentation of markets and restriction in growth potential of regions'.[13] The situation was further compounded by the fact that these regional groupings include both LDCs and non-LDCs, which have different interests and with only the LDCs enjoying benefits under the EBA. According to Borrmann et al (2005, '(least) developed countries currently have little incentive to participate in an EPA purely from a trading perspective, as they would hardly gain additional market access in the EU in return for opening up their own market to the EU'.[14] Moreover, little consideration seems to have been given to the complexity and importance of existing regional integration efforts in the context of the EPA negotiations with e.g. EU proposals for tariff harmonisation and liberalisation cutting across or even pre-empted existing regional

[11] According to ECDPM (2006d), '(indeed), most ECOWAS countries are highly dependent on customs duties, which average 14.7% of government revenue and 2.5% of GDP. This is particularly relevant for smaller countries like Sierra Leone and Gambia,..'. In Central Africa, 'tariffs form an important source of revenue for the region's governments, making up from 28% to 65% of national budgets' (ECDPM (2006b)). See also Borrmann et al (2005), Mackie et al (2008a), Morressey and Zgovu (2009), Busse (2010). While recognizing this potential loss of revenue, Morrissey and Zgovu (2009) underline that 'ACP countries have at least 10 years to phase in tariff elimination and even then can continue to exclude a range of designated 'sensitive products' (identifying these is a sticking point in negotiations)'. Fontagné et al (2009) argue that 'tariff revenue losses are computed on total ACP imports, losses are limited to 26% on average, and over the long run, and could even be 19% if product lists are optimized. The final impact depends on the importance of tariffs in government revenue, and on potential compensatory effects. .. However, long term solutions will depend on the capacity of each ACP country to reorganize its fiscal base.

[12] Only in the case of the East Africa Community (Burundi, Kenya, Rwanda, Tanzania and Uganda) was there a negotiation group that coincided with an existing regional economic community.

[13] Meyn (2008) in this respect concluded that '(it) is very difficult to imagine how this 'spaghetti bowl' of different national and sub-regional commitments could be knitted into two regional integration groupings comprising all southern and eastern African countries'.

[14] See also Borrmann and Busse (2007).

integration initiatives. In 2012, the Commission recognised that '(in) several instances, the reality of regional integration processes was not sufficiently advanced, both politically among the countries concerned and capacity-wise (European Commission. (2012f).

- ACP countries were pressured to negotiate on trade-related issues, such as investment and government procurement, in cases where there is little capacity or incentive at either regional or national level to enter into commitments in such areas. This raised the concern that the pace set by the EPA negotiations left little time to focus on internal factors relating to autonomous regional integration and could, in fact, undermine such efforts.
- Moreover, although the regional agenda is largely defined by member states, some countries do not consider the implementation of regional strategy as a national priority, which tends to delay the regional integration programme. Ownership of strategies by regional organisations *and* their members has been difficult, since regional organisations were often 'seen as largely technical entities with little political power of their own' (Mackie et al (2010a).
- Concerns voiced over a number of '*contentious*' provisions appearing within the agreements, *inter alia* related to the definition of the most favoured nation clause, the 'non-execution' clause (which provides for the possibility of trade sanctions in the event of violations of democratic or human rights principles), the definition of rules of origin, tariff liberalisation schedules, joint lists of products that were to be excluded from the liberalization, binding provisions for public procurement, investment and capital movement and intellectual property rights
- Insufficient attention for accompanying measures to remove supply-side constraints, 'like unreliable public utilities, poor public infrastructure, weak institutional policy frameworks and low labour productivity', deal with non-tariff barriers in EU markets and to offset the negative effects of tariff reductions on government revenues. Borrmann et al (2005) underline in this respect that supply side constraints have played a key role: 'most ACP countries lack the productive and technological capacities, marketing skills, transportation channels, and appropriate technical and sanitary regulations that are required to exploit the opportunities on EU and world markets'.
- Szepesi and Bilal (2003) and Hoestenberghe and Roelfsema (2006), furthermore refer to need for the EU to remove market distortions and to adapt its own domestic policies that negatively impact on ACP countries, in particular its Common Agricultural Policy.

The Netherlands has repeatedly advocated for timely concluding the EPA negotiations from around 2005 onwards and expressed its concern about slow progress in these negotiations. It was therefor pleased that the Everything But Arms initiative (see Text Box A.10.1) had been put in place as an equivalent of the arrangements that existed for LDCs earlier on.

Text Box A.10.1: Everything But Arms

On 28 February 2001, the Council adopted Council Regulation (EC) No. 416/2001, better known as the 'Everything But Arms' (EBA) Regulation. The Regulation went into force on 5 March 2001 and was incorporated into the Generalised System of Preferences (GSP) Regulation that went into force on 1 January 2002. Article 7 of the Regulation states that '*(in) the light of the real risk of the LDCs becoming increasingly marginalised in the world economy, the Community must go even further than these undertakings and grant all products from LDCs, except arms and munitions, duty-free access without quantitative restrictions immediately*'. According to OECD (2002), the LCDs 'generally welcomed this initiative as a show of good faith by the EU in the WTO framework' despite 'some concerns about institutional shortcomings' (OECD, 2002)). The EBA Regulation applies to 48 LDCs including 40 ACP countries, and, according to UNCTAD, 'has made the EC GSP for LDCs a more favourable scheme in terms of tariff treatment and product coverage than the preferential trade arrangement available under the Cotonou Agreement' (UNCTAD (2002)).

A study conducted in 2003 (Cernat et al (2003)) concluded that there were 'moderate, but useful, welfare and trade gains from the EBA initiative, with the largest gains being recorded for sub-Saharan Africa' but that these gains were 'likely to occur in relatively few sectors'. At the same time, supply-side factors constraints were likely to be the more important since '(even) the most generous market access enhancements alone may not be sufficient to strengthen the links between trade and development in the poorest countries in the world'. Conforti and Rapsomanikis (2006) stated that '(on) average, the initial impact of EBA on LDCs total exports to the EU is small' – though not uniform across countries, with a number of LDCs being 'unable to take advantage of EBA due to the current composition of their exports'. Gradeva and Martínez-Zarzoso (2010) finally conclude that '(the) only group of countries, which has benefited from the introduction of the EBA scheme so far, is perhaps the group of the Asian LDCs' and that 'eligibility for the EBA scheme alone does not contribute to the increase of the exports of the ACP LDCs'.

Current state of affairs

By January 2012, interim or full EPAs existed with only 36 (including 15 small island states in the Caribbean) out of the 77 ACP countries. 18 of these 36 countries have taken steps towards ratifying these agreements, the others did not. Most African and Pacific countries, in particular the LDCs, have not concluded any agreement. The Caribbean is the only region that has signed a comprehensive regional EPA to date and moved on to the implementation phase (Table A.10.1 gives an overview of the situation in November 2012).

In concrete terms, Africa-EU trade relations have been split into a multitude of parallel preferential schemes since 2008, when the World Trade Organization (WTO) ended the waiver that allowed unilateral Lomé- and Cotonou-type preferences (Mackie et al (2012)). Though this is 'hardly conducive to strengthen regional integration'(Bilal and Braun-Munzinger (2008)), ACP-EU trade relations are de facto governed by multiple regimes, even though this is not recognised in the 2010 revision of the Cotonou Agreement[15], i.e.:

- an EPA, where provisionally applied – this concerns 36 ACP countries, including 10 LDCs and 20 non-LDCs
- the Market Access Regulation advancing EU application of EPAs not yet applied – i.e. the interim EPAs;
- the Generalised System of Preferences [16]
- the EBA arrangement – benefiting 31 ACP least developed countries and
- in the case of South Africa, the Trade, Development and Co-operation Agreement.

Table A.10.1: EPA state of affairs (November 2012)

Region	ACP countries	Initialled interim EPA	Signed interim EPA	Signed EPA	Ratified EPA
West Africa	Cote d'Ivoire[17]	■	■		
	Ghana	■			
Central Africa[18]	Cameroon	■	■		
Eastern and Southern Africa	Mauritius	■	■		
	Comoros	■			
	Seychelles	■	■		■
	Zimbabwe	■	■		
	Madagascar	■	■		
Eastern African Community[19]	Burundi	■			
	Rwanda	■			
	Tanzania	■			
	Kenya	■			
	Uganda	■			
South African Development Community[20]	Botswana	■	■		
	Lesotho	■	■		
	Swaziland	■	■		
	Mozambique	■	■		
Caribbean	CARIFORUM[21]			■	
Pacific	Papua New Guinea	■		■	■

[15] Mackie et al (2010b) observe in this respect: 'Despite the current coexistence of multiple mechanisms governing EU-ACP trade relations, the 2010 text merely highlights the need for the parties to 'take all the necessary measures to ensure the conclusion of new WTO compatible EPAs'. It makes no mention of any other possibility, despite the fact that alternative schemes are being applied (such as the Generalised System of Preferences). Hence, ACP-EU trade relations are no longer necessarily governed by the Cotonou Agreement, though trade was previously a key component'.
[16] This regime applies to Nigeria, Republic of the Congo, Gabon and the Cook Islands, Federated States of Micronesia, Nauru, Niue, Palau, Marshall Islands and Tonga in the Pacific.
[17] The Agreement was approved by the European Parliament in March 2009.
[18] In October 2007, in the absence of an agreement, all the governments requested an extension for two additional years of the dispensation concerning the Cotonou preferences. This request was denied by the WTO.
[19] In February 2004, the EAC members Burundi, Kenya, Rwanda and Uganda form part of the ESA region when negotiations with that group are officially launched. In August 2007, they decided to negotiate their own EPA with the EU together with Tanzania.
[20] Namibia has indicated that it is not ready to sign.
[21] The agreement was provisionally applied since December 2008. It was ratified by the European Parliament in March 2009.

Table A.10.1: EPA state of affairs (November 2012)

Region	ACP countries	Initialled interim EPA	Signed interim EPA	Signed EPA	Ratified EPA
	Fiji				
Source: EU Trade, Overview of EPA, updated 14 November 2012; European Parliament, OPPD (2011).					

Developments do not have affected the optimism that exists at Council level. On the contrary, in May 2008, the Council 'firmly believed' achieving EPAs with comprehensive regional coverage and wide scope would remain the ultimate aim (Council (2008p)). It considered 'that supporting regional integration (was) a key objective of the EU-ACP partnership as set out in the Cotonou Agreement. Support to regional integration was motivated 'by the search for stabilisation of peace and prevention of conflicts, economic development through building up larger markets and the management of challenges with a trans-national dimension'. Once more in November 2008, and despite slow progress, the Council reiterated its faith in the EPAs and its desire to see the EPA negotiation process completed, emphasizing that the EPAs 'must be based on existing regional integration processes, which they must encourage and support' (Council (2008q)). The Council recalled 'the opportunities offered by WTO law, including in terms of asymmetry, timetabling and the adjustments of safeguard measures' and called 'for this flexibility to be fully exploited in the negotiations, if that were needed and deemed appropriate, while guaranteeing adequate progress, to take account of the different needs and levels of development of ACP countries and regions..'.

To respond to ACP concerns, the Council underlined 'the need for a flexible approach while ensuring adequate progress' and called on the Commission 'to use all WTO-compatible flexibility and asymmetry, in order to take account of different needs and levels of development of the ACP countries and regions' (Council (2008p)). Moreover, the Council recognized that regional integration and EPAs could entail adjustments and reforms in ACP economies and policies. Referring to the Aid for Trade Strategy, '(in) order to help ACP regions, countries and local communities, including small producers, reap all their benefits, EU development assistance will accompany these processes'.

Aid for Trade strategy and initiatives

Aid for Trade is development aid provided to support partner countries' efforts to develop the basic economic infrastructure and tools they need to expand their trade. The Aid for Trade Initiative dates back to the WTO Ministerial Conference of Hong Kong of December 2005 and covers six broad categories of activities under the headings of '*Trade Related Assistance*' and the '*Wider AfT agenda*', i.e. (Commission (2011ae)):

- **Trade Related Assistance**
  - (i) Trade policy and regulations[22]
  - (ii) Trade development[23]
- **Wider AfT agenda**
  - (iii) Trade-related physical infrastructure (including e.g. transport and storage, communications and energy generation and supply);
  - (iv) Building productive capacity (includes business development and activities aimed at improving the business climate, privatisation, assistance to banking and financial services, agriculture, forestry, fishing, industry, mineral resources and mining);
  - (v) Trade-related adjustment (e.g. contributions to government budget to implement trade reforms and trade policy measures) and

[22] This concerns trade policy and planning, trade facilitation, regional trade agreements, multilateral trade negotiations, multi-sector wholesale/retail trade and trade promotion. Includes training of trade officials, analysis of proposals and positions and their impact, support for national stakeholders to articulate commercial interests and identify trade-offs, dispute issues, and institutional and technical support to facilitate implementation of trade agreements and to adapt to and comply with rules and standards.

[23] Includes all support aimed at stimulating trade by domestic firms and encourage investment in trade-oriented industries, such as trade-related business development and activities aimed at improving the business climate, privatisation, assistance to banking and financial services, agriculture, forestry, fishing, industry, mineral resources and mining, tourism.

- (vi) Other trade-related needs that are not captured by the above categories above (e.g. vocational education).

In October 2007, the Council adopted the EU's Aid for Trade Strategy (Council (2007ab)). The Strategy was to 'help Member States and the European Community (EC) to support all developing countries, particularly Least Developed Countries (LDCs), to better integrate into the rules-based world trading system and to more effectively use trade in promoting the overarching objective of eradication of poverty in the context of sustainable development' (Council (2007ab)).

A joint EU initiative, the Strategy focuses on: (a) scaling-up of total EU Aid for Trade in general as well as increasing the specific funding of Trade Related Assistance to enable ACP countries to take full advantage of trading opportunities and maximise the benefits of trade reforms; (b) enhancing the impact and pro-poor focus of EU Aid for Trade; and (c) supporting the ACP regional integration process. The strategy remained 'vague on concrete modalities to deliver the assistance', did not contain 'precise quantitative commitments' or 'a commitment on how the share of trade-related assistance dedicated to ACP countries (would) be translated into practice. (Mackie et al (2008a)). Strategy pillars and key principles are shown below (European Commission (2009w); Council (2007ab)). The EU has agreed that the provision of Aid for Trade was valuable in itself and would continue to be provided, regardless of the outcome of EPA negotiations (Bilal et al (2010)).

The Strategy pillars	Strategy key principles
How to deliver on EU quantitative Aid for Trade ambitions	Aid for Trade should be provided to all developing countries, but particularly to the poorest
How to ensure the quality and pro-poor focus of the assistance	Aid for Trade is part of the broader development policies and linked to MDGs
How to increase EU-wide capacity and improve the effectiveness of the assistance delivered	Aid for Trade complements but is not a substitute for a successful outcome of the Doha Development Agenda or other trade negotiations
How to support ACP regional integration efforts	Aid for Trade should operationalise the Paris Principles and the EU Code of Conduct
How to ensure effective monitoring and reporting to sustain the process of implementing the pledges and commitments	

Aid for Trade (including aid provided by the Member States) to ACP countries increased by 105% between 2005 and 2008 but went down from EUR 3.7 billion in 2009 to 3.1 billion in 2010[24] with 39% of EU commitments dedicated to ACP countries and just over 20% going to LCDs. EU and Member States allocate relatively less of their ODA to Aid for Trade to LDCs than to other developing countries though the LDC share of the EU Aid for Trade has been continuously higher than that of EU Member States (European Commission. (2012f)). The low share going to LDCs would seem to be inconsistent with the aim of the Aid for Trade Strategy to help in particular the poorest countries with their trade integration (Commission (2010ad)). Building Productive Capacity and Trade-related Infrastructure (TRI) represent the most important components of Aid for Trade. Trade Policy and Regulation, Trade Related Adjustments and Other Trade Related Needs accounted for less than 8%. Sector wise, in 2010, 35% went to agriculture, 29% to transport and storage, 13% to energy and 8% to industry, 7% to trade policy and regulation[25], 4% to business and other services and 4% to other sectors (European Commission (2012e)).

[24] Major EU donors on trade related assistance are Germany, UK and Spain (together about 70% of trade related assistance in 2010).

[25] Borrman and Buse (2007) argue in this respect that 'only countries with a good regulatory framework are able to minimise the trade-induced adjustment costs and take advantage of export opportunities abroad' and that for many African ACP countries 'excessive regulation ..hinders them from benefiting from trade opportunities': for countries with excessive regulation 'the impact of trade on (long-term) growth rates is negative' and they 'are less likely to benefit from an increase in trade due to EPAs'. Though the 'EU is right to press for reforms in ACP countries' and particularly for low-income, Sub-Saharan Africa, '(reforming) the institutional and regulatory setting is an enormous policy challenge' and will take time.

On the EU side, in 2009, 59% of Aid for Trade was financed from the EDF (EUR 1.8 billion), with 70% going to Sub-Saharan Africa, and EUR 1.2 billion from the EU budget.

Regional Aid for Trade packages, in support of ACP regional integration agendas and implementation of the EPAs, were initiated in 2008 with the blessing of the Council. The role of these packages is to support the regional integration agendas of the ACP countries by providing a coordinated and increased financial response from the EU (i.e. European Community and Member States) to the needs and priorities expressed by the ACP countries and regions, including for implementation of Economic Partnership Agreements that are agreed or being negotiated between the EU and ACP regions (Commission (2009w)). Funding is provided under the regional programmes of the 10th EDF; with €1.78 billion being allocated to regional integration of ACP countries under the 10th EDF, the overall budget has almost doubled compared to the previous period of 2000-2007.

In addition to EDF funding earmarked for regional integration and trade related assistance (see the overview below), there has been a series of horizontal programmes, accessible to all ACP countries, which support supply capacity (e.g. a pesticides programme for the horticulture sector (EUR 29 million) and the project to strengthen the health standards of the fishery sector (EUR 42.7 million) to meet EU requirements relating to sanitary and phytosanitary standards for exporting these products). There has also been the EUR 50 million programme Trade.Com.

While the Commission reports on Aid for Trade each year, little is known of recent results. In 2012, the Council underlined '(the) need for better targeted, result-oriented and coordinated Aid for Trade … by encouraging developing countries to integrate trade as a strong component in their development strategies, enhancing the complementarity and coherence between trade and development instruments, focusing on LDCs and developing countries most in need and increasing the engagement of the private sector' and called on the Commission and Member States 'to better coordinate their aid for trade, and to align it behind the development strategies of partner countries, supporting efforts to integrate the inclusive and sustainable growth dimension in these strategies, keeping in mind the importance of capacity building' (Council (2012i)).

Changes in ACP-EU trade

One of the reasons to change the Lomé trade regime was that it had done little to boost trade, diversify ACP economies. When excluding South Africa, the EU's main ACP trading partner, there was '(remarkably) little fluctuation and hardly any growth .. in total values traded' between the EU and the ACP countries (Allen (2002)). In fact, the ACP share in European imports had gone down from close to 8% in 1975 to some 3-4% in 2000, mainly reflecting the 'trade dilemma of the LDCs' that accounted for 39 of the 79 ACP countries (Borrmann et al (2005)). The following paragraphs provide a brief on what has happened in the first decade of the New Millennium.

In terms of EU trade relations with ACP countries, statistics show (see Table A.10.2) that excluding South Africa, total EU trade with the ACP countries has almost tripled between 1998 and 2011. After a dip in 2009 it has increased by some 50% to reach EUR 123 billion in 2011. EU imports from ACP countries have tripled as well, but parallel to overall trade, saw a decline in 2009 after which they increased to EUR 68 billion in 2011. EU experts to ACP countries have increased less strongly than imports but saw a dip in 2009 as well before increasing to EUR 55 billion in 2011. The European trade deficit with the ACP countries that existed for nearly a decade turned into a trade surplus in 2009 (EUR 3.6 billion) and 2010 (EUR 3.8 billion) before turning into a deficit again in 2011.

Table A.10.2: EU ACP trade relations (excluding South Africa) (in EUR mln)

	1998	2000	2002	2005	2007	2008	2009	2010	2011
EU imports from ACP countries	21,494	28,557	30,515	36,138	42,879	54,133	38,722	46,827	68,492
EU exports to ACP countries	22,223	26,429	27,802	30,763	41,477	47,398	41,339	47,322	54,536
Trade balance	729	-2,128	-2,713	-5,375	-1,402	-6,735	2,617	495	-13,956
Total trade	43,717	54,986	58,317	66,901	84,356	101,531	80,061	94,149	123,028

Sources: EU – Africa, Caribbean, Pacific (ACP) trade relations, Key Facts and Figures, Brussels, 2 October 2003; DG Trade, EU bilateral trade and trade with the world (ACP excluding South Africa, 29 November 2012

For the EU, despite growth in volume, the importance of trade with the ACP group has remained rather marginal; despite a longstanding partnership, 'the ACP region remains of more modest economic importance, accounting for very little in terms of trade' (Fontagné et al (2009)). In both 2001 and 2007, imports from ACP countries equalled 2.8% of all EU imports, by 2011 this was around 5%. Vice versa, the EU has remained the main export market for the ACP countries, especially when excluding data on mineral fuels, though its share has seen a decline: in 2010, 22.5% of ACP exports went to the EU compared to 29% in 2001. Although the EU continues to maintain its position as Africa's main trading partner, recent data suggests that it is 'losing influence and trade advantages to other global actors, such as the emerging powers' (Mackie et al (2010b)). On the other hand, it shows that 'ACP countries have been able to diversify their external trade relations, mainly due to the noteworthy explosion of exchanges with the People's Republic of China and other emerging economies' (European Parliament, OPPD (2011)).

Throughout the years, only a few ACP countries have accounted for the bulk of ACP exports to the EU. South Africa has consistently been the most important trading partner. By 2010, it accounted for more than 28% of EU ACP imports and 31% of exports in 2010, with Nigeria and Angola in second and third place but at a distance, mainly providing mineral fuels. In 2008, South Africa, Nigeria and Angola accounted for over 60% of ACP exports to the EU. Other main exporters have been Cote d'Ivoire, Angola, Cameroon, Mauritius and Ghana. In 2008, the combined share of exports to the EU from the Caribbean and Pacific ACP countries was around 10%.

For the LDCs among the ACP countries, the Commission observed in 2012[26] that their dependence on a few export products, particularly primary commodities, increased during the past decade. Moreover, the increase in LDC exports is concentrated in a subset of countries (Chad, Zambia, Angola, and Equatorial Guinea) but is at the same time mainly due to the increase in global demand (oil in the case of Chad, Angola and Equatorial Guinea, and copper in the case of Zambia) and high commodity prices. On average, three main export products make up more than 75% of all their exports with the EU accounting for about 16% of the LDCs' trade, ranking second after China with a share of close to 22%. In 2009, the EU was the world's leading importer of LDCs' agricultural products with 32% of the total (compared to 15.6% for India and 11.6% for China) and of LDCs' textile and clothing products with 51% of the total (compared to 32% for the USA). However, with 13% of fuel exports from LDCs, the EU comes after China (34%) and the USA (23%).

There has been little export diversification on the side of the ACP countries. In 2002, eight products[27] accounted for over 60% of total ACP exports, with the bulk of ACP exports consisting of raw materials or 'primary products', in particular mineral fuels and food products: 'little value was likely to be added by the respective exporting economies in question'. With the high share of raw materials of ACP exports and the concentration of these experts in only few products Busse (2010) observes that '(additional) market access preferences alone are, therefore, not very likely to benefit ACP countries in the future'.

In 2010, 41 % of all EU imports from ACP countries consisted of mineral fuels (mainly from Nigeria and Angola); this was 24.3% in 2006 and around 20% in 2001. Countries like Nigeria, Angola and Equatorial Guinea rely heavily on the export of energy products. In 2006, 31 ACP countries relied on only one agricultural commodity for more than 20% of their total export earnings. According to Fontagné et al (2009), '(one) single product category (out of the 5,113 categories of products in the HS6 classification) accounts for more than 50% of total exports in one country in two, and more than 70% in one country in three'.

Table A.10.3 gives an overview of the EU top 10 imports from ACP countries in selected years.

[26] European Commission (2012f).

[27] Petroleum oil (28% of total ACP exports), diamonds (9%), cocoa (8%), fish (6%), wood (4%), sugar (3%), aluminium (2%), and tobacco (2%).

Table A.10.3: EU 27 Top 10 imports from ACP (in EUR mln)

	2000	2004	2005	2006	2009	2010	
Petroleum, petroleum products	8,261	6,570	11,966	14,352	16,680	20,056	Of which Nigeria 45% and Angola 28% in 2009.
Coffee, tea, cocoa, spices	2,891	3,060	3,173	3,117	4,824	5,490	Of which Cote d'Ivoir 36%, Ghana 16%, Cameroon 11% and Nigeria 10% in 2009.
Gas, natural and manufactured	569	994	1,391	3,002	3,346	4,548	Of which Nigeria 60% and Trinidad Tobago 38% in 2009.
Non-metallic mineral manufactures	5,010	4,839	5,955	5,686	2,963	4,144	Of which South Africa 69%, Botswana 11% in 2009.
Non-ferrous metals	1,845	1,961	2,368	3,947	2,481	3,619	
Metalliferous ores and metal scrap	2,132	1,984	2,365	2,959	2,164	3,170	
Vegetables and fruit	2,049	2,294	2,327	2,372	2,054	2,797	Of which South Africa 47% and Kenya 10% in 2009.
Fish, crustaceans, mollucs	1,867	1,970	1,989	1,989	1,887	1,799	
Iron and steel	1,165	1,760	1,855	2,020	1,741	1,751	
General industrial machinery					1,381	1,384	
Coal	1,437	2,116	2,833	2,683			
Total	27,226	27,548	36,222	42,127	39,521	48,758	

Annex 11: Effective multilateralism

Introduction

This Annex deals with EU collaboration with the UN system and the World Bank as part of the EU's quest for effective multilateralism. It is written for three main reasons. First of all, stepping up this collaboration is something that has been emphasized by, amongst others, the Netherlands. The EU's commitment to effective multilateralism is a core element of the EU's external action as confirmed in Article 21 of the Lisbon Treaty. Secondly, the amounts channelled by the Commission through these other players have been substantial and EU institutions have become major contributors to UN non-core funding and World Bank trust funds (OECD (2012)).Thirdly, the fact that aid money, provided by the Member States to the Commission, is used by the Commission to fund activities of the UN and the World Bank that are also financed by the Member States directly has come under critique.[1]

EU aid and UN

Why stepping up EU – UN relations?

At the level of Union, stepping up relationships with the UN is part of the broader Common Foreign and Security and European Security and Defence policies' agenda, with the UN as key partner in EU efforts for maintaining international peace and security. The Commission stated in 2005 that '(the) Commission and the Member States are strongly committed to multilateralism and efforts to further strengthen the EU-UN cooperation are among the priorities identified by the European Council (Commission (2005l)). At the same, as observed by Tardy (2007)), the UN is an important source of legitimacy for the EU's ESDP activities. While EU efforts to promote multilateralism are also a way for the EU to 'rescue' a cash-stricken UN, there is also a political side: using support for the UN reflecting the ambition to establish the European Union as a 'global actor' in the international sphere (Wouters (2007)). As stated by the Commission in 2009, working with other international organisations would allow the Union to play a strong role in terms of policy dialogue and to promote EU policies (Commission (2009n)). In its annual activity report on 2011, the EEAS reconfirmed the EU position on promoting multilateralism: 'Recognising that global challenges require global solutions, the EU maintained its unequivocal support for multilateralism as reaffirmed in the Lisbon Treaty (EEAS (2012)).

Against this background it is not surprising that the Netherlands welcomed the Commission communications that aimed to step up EU-UN cooperation, i.e. 'Building an effective partnership with the United Nations in the fields of Development and Humanitarian Affairs' (May 2001) and 'The European Union and the United Nations: The choice of multilateralism' (September 2003 (see Text Box 11.1)).[2] The main reasons for its position were: (i) the Netherlands were relieved that finally another donor had agreed to burden-sharing in funding of the UN; (ii) purposeful utilisation of EU funds through the UN, was not only in the interest of the EU but also that of the Member States in view of the contribution that it could make to the realisation of international development aims; (iii) the intention of the Commission to bring greater coherence and synergy between EU and UN was in line with the Dutch emphasis on increasing coordination and (iv) in order to guard international peace and security, the Netherlands collaboration

[1] For example, Corre (2008), called for a debate on 'the appropriateness of Community contributions to international organisations to which Member States are already contributing on a bilateral basis' and stressed the need for a joint strategy to coordinate of EU contributions with those of the Member States, 'particularly to vertical funds' . Open Europe (2007 and 2012) referred to the channeling EU money as 'particularly wasteful administrative activity' implying a 'wasteful chain of transfers: national agencies administering a transfer to the EU which then administers a transfer to another multilateral organisation, which then eventually administers aid to the recipient country - with administrative costs and delay at each stage'. Also the European Parliament has questioned on several occasions why the Commission channels funds through the UN and the lack of visibility of such aid. Concerns were also expressed on the adequacy of the management of these funds. (For example European Parliament (2011e)).
[2] European Commission. (2001a) and (2003b).

between the EU and institution such as the UN should be encouraged in the area of conflict prevention (KST 76873 (2004)).[3]

Text Box A.11.1: Commission Communications on relations with the UN (2001 and 2003)

Communication COM (2001) 231 final, formulates the aim of improving collaboration with the UN as 'to strengthen the involvement of the EU in the upstream policy dialogue and to build a more transparent, financially predictable and easier to monitor partnership with chosen UN agencies, funds and programmes' in the fields of development and humanitarian affairs. The Communication furthermore makes clear that the EU would:

- Base its co-operation with the UN on two core principles: (i) a division of labour among donors and added value/comparative advantage of UN activities; and (ii) a re-focussing of Community development activities to a number of areas selected on the basis of their linkage to poverty reduction and Community added value'.
- Select UN bodies with which it will work 'on the basis of their ability to match the objectives of the EU and to make a reliable and effective contribution .. to the implementation of the EU development priorities'.
- Not provide core funding to the UN as this remained a Member State obligation, but would use a system of contracts to channel its funds, making it an example of 'joint management.

It also advocated for a more coherent and coordinated approach at the level of the UN for the European Union as a whole – something that was not particularly favoured by the Netherlands in the early years of the New Millennium, but with its position changing in more recent times.[4]

COM(2003) 526 final highlights that the 'Union's commitment to multilateralism is a defining principle of its external policy. The document advocates for an active role of the EU in (i) supporting UN institutional reform; (ii) in addressing international political, conflict prevention and crisis management as well as peace and security and human rights issues (in line with the Common Foreign and Security and European Security and Defence policies [5]) together with the UN; and (iii) 'the negotiation and implementation of important UN initiatives in the fields of sustainable development, poverty reduction and international security'.

Not only the Netherlands was in favour: also the Council welcomed the Communication of 2003 and has since then repeatedly reconfirmed EU support 'for an effective multilateral system based on the rule of law, and the need for a United Nations better equipped to meet the challenges of the 21st Century', the aspiration of 'effective multilateralism', its willingness to support UN reform and the fact that cooperation with the UN and international financing institutions, rather than creating new channels, provides often for

[3] Along the same lines, the Netherlands welcomed the Commission's initiative to step up working relations with the UN in fragile states and to provide EU support to such stakes in consultation with the UN (COM (2007) 643 on fragile states).

[4] In the early years of the evaluation period the Netherlands was hesitant about stronger role for the EU in decision-making at UN level and preferred to work with like-minded, often non-EU countries (see KST 53176. (2001)). However, it did realise that 'vertegenwoordiging van de Unie in internationale organisaties kan aan slagkracht winnen door vereenvoudiging, allereerst door, daar waar dit toegevoegde waarde heeft, betere afstemming tussen de lidstaten van het optreden in deze organisaties, maar op lange termijn ook door een Europese zetel, bijvoorbeeld in de Veiligheidsraad, de Wereldbank en de G8. Deze stap kan alleen gezet worden indien de beleidsterreinen in de betreffende organisatie behoren tot de gemeenschapscompetentie. Het is zaak deze stap dan in één keer te nemen om te voorkomen dat er een onbevredigende tussenoplossing zou ontstaan die aan de Nederlandse belangen geen recht zou doen' (KST 63455. (2002)). This position was reconfirmed in 2011: 'Tegen 2030 moet de EU ook veel eensgezinder optreden in internationale organisaties. Nu zijn de Europese lidstaten oververtegenwoordigd in internationale organisaties, maar klinkt paradoxaal genoeg het Europese geluid alsmaar minder door ('too many Europeans, not enough Europe'). Nederland streeft naar een permanente Europese zetel in de VN-veiligheidsraad. En Europa zal strategische allianties moeten aangaan met gelijkgezinde landen die ons waardestelsel delen (VS, Australië, Canada en Japan)' (KST 32502-3 (2011)).

[5] The European security strategy of December 2003, 'A secure Europe in a better World' states along the same lines: 'In a world of global threats, global markets and global media, our security and prosperity increasingly depend on an effective multilateral system. The development of a stronger international society, well-functioning international institutions and a rule-based international order is our objective. We are committed to upholding and developing International Law. The fundamental framework for international relations is the United Nations Charter. The United Nations Security Council has the primary responsibility for the maintenance of international peace and security. Strengthening the United Nations, equipping it to fulfil its responsibilities and to act effectively, is a European priority'. The same document also calls for EU support to the UN 'as it responds to threats to international peace and security' and reflects a commitment to reinforce cooperation with the UN to assist countries emerging from conflicts, and to enhancing its support for the UN in short-term crisis management situations'). See also Wouters (2007).

more efficient and effective delivery of aid.[6] On the issue of efficiency the position was that UN and World Bank could have access to skills and expertise in specific sectors which were not always (sufficiently) available at EU Delegations and enjoyed privileged, neutral relations with local and national governments, which facilitated working at country and regional level. This was particularly the case when:

- The Commission had had its co-operation with local governments interrupted (Iraq).
- The Commission wished to intervene in global problems which needed global solutions (e.g. Tsunami, major pandemics).
- The international community provided the UN with a special mandate to intervene and in politically sensitive situations (e.g. refugees, elections).

Actions taken to enhance collaboration between Commission and UN

To facilitate cooperation and create a better enabling environment for the EU to finance UN operations (Commission (2003b), a new EU-UN Financial and Administrative Framework Agreement (FAFA) was signed in April 2003. Similar agreements were signed with several UN specialized agencies[7] from July 2003 onwards; most recently with UN Women in 2011. The FAFA facilitates administrative cooperation by standardising contractual modalities and by a commitment to rely on UN standard auditing, control, accounting and procurement procedures. It regulates amongst others M&E aspects, reporting, categories of eligible direct and indirect costs, contracting and procurement rules, payment schedules and other financial issues, as well as visibility and auditing.[8] In addition, legally non-binding strategic partnerships were agreed with a number of selected UN bodies (UNDP (June 2004), WHO (July 2004), ILO (July 2004), FAO (September 2004), UNHCR (February 2005), and WFP (September 2005).[9] These partnerships regulate financial matters, indicate the main areas of collaboration, and include a provision for regular policy dialogue plus a number of working principles. In addition, operational guidelines can be established when there is a strong partnership in a particular field (as is the case for UNDP since April 2006).

Furthermore, an EU-UN Working Group was set up that meets bi-annually; main issues discussed have been: (i) organization, terms of reference for, planning and frequency of EU verification missions; (ii) role of UN's own audit systems and reports; (iii) ensuring application of guidelines on communication and visibility of EU aid channelled through the UN; (iv) delays in reporting, with annual reports, prepared since 2006, still focusing on inputs rather than showing 'tangible efficient results' (UN and Commission (2009)).

Implementing EU – UN collaboration under the EDF

In terms of Commission aid through the UN (Budget and EDF), Table A.11.1 shows that total funding increased six fold between 2000 and 2010 (including support for all UN peace keeping operations (Commission (2008n)). It reached a peak in both 2006 and 2009. In 2005 and 2006, aid flows through the UN represented 13% of total EU aid and (UN and World Bank) just over 11% in 2007 (Commission (2008b)). EU aid to ACP countries through the UN, increased four-fold in the period 2000-2010.[10]

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[6] Council (2004a), (2005a), (2005b), (2006a), (2008k), (2009a) and (2010f). See also OECD (2009b).

[7] The 13 Specialized Agencies are independent legal entities and autonomous bodies belonging to the 'UN Family' or 'UN System', created by intergovernmental agreements and linked to the UN through cooperative agreements.

[8] The Commission conducted a compliance analysis of the procedures of twelve UN organisations with internationally accepted standards in2007. According to the Commission, '(the) results of this analysis are satisfactory, showing that the organisations generally meet the standards identified for the four criteria of article 53(d) of the FR for the General Budget (accounting, audit, internal control, procurement)' (Commission (2008a)).

[9] According to Commission (2005i), '(the) partnerships aim at strengthening the Commission's and UN organisations' ability to deliver efficient, high quality assistance to developing countries through active and regular policy dialogue, enhanced input in the governing bodies and meetings of the UN organisations and strengthened financial cooperation'.

[10] According to ADE (2007), between 1999 and 2006, 33% of aid channelled through UN went to ACP countries, involving 741 contracts signed in these countries between the Commission and the UN.

Table A.11.1: Annual contracted amounts between EU and UN, 2000-2010 (EUR mln)

	Budget	EDF	ACP countries	Other	Total
2000	114	1	61	54	115
2001	109	35	77	67	144
2002	249	38	145	142	287
2003	418	24	44	399	442
2004	458	379	338	499	837
2005	667	207	227	647	874
2006	759	254	206	807	1,013
2007	504	289	269	524	793
2008	540	168	144	564	708
2009	950	124	224	850	1,074
2010	478	192	248	423	671
Total	5,246	1,712	1,982	4,976	6,958

Source: Commission (2011b).

In terms of country coverage, data for the period 1999-2006 indicate that the Palestinian Territories (amongst others through UNWRA; 14%), Iraq (12%) and Afghanistan (9%) have received most EU aid through the UN. Major ACP beneficiaries have been Nigeria, DRC, Somalia, East Timor and Sudan (a total of 16.3%).

Sector-wise, emphasis has been on:

- emergency relief and humanitarian assistance
- strengthening governance (democracy, elections, rule of law); and
- Crisis prevention, reintegration, rehabilitation and recovery increasing.

Other areas have been human rights, human development, food security, rural development, trade and small enterprise development.

Overall, UNDP has been the biggest recipient in terms of funding (35%), followed by UNWRA (12%), WFP (12%), FAO (8%) and UNICEF (6%). In terms of EDF funding, UNDP's share was 43% in the period 2000-2010; other main beneficiaries were UNICEF (11%), WHO (9%), FAO (8%), and WFP (6%).

Main findings of the evaluation of the Commission's external cooperation through the UN of 2007-2008 are in summary the following[11]:

- In stepping up its cooperation with the UN, the EU had taken a pragmatic approach of treating UN bodies as partners on an ad hoc basis, though valid reasons for selecting the UN as a partner were not always documented.
- The aid modality had brought 'added value' to the Commission especially in circumstances where (a) the EU had had its co-operation with local governments interrupted; (b) the international community had provided the UN with the mandate to intervene; (c) situations were politically sensitive (e.g. refugees, elections); or (d) the EU wished to intervene in global problems which needed global solutions (e.g. climate change, drugs).
- It had also brought added value to the UN, especially in terms of the volume of aid allowing to 'perform its functions on a more stable and predictable basis', and for the partner countries, benefiting from: (a) EU aid in situations where it would otherwise have been difficult, if not impossible, for the Commission to intervene, (b) specific UN expertise and (c) from a restriction in the number of interlocutors in multi-donor interventions.

[11] The evaluation provides less convincing and less well-substantiated Information on results and impact in terms of (i) reaching beneficiaries in cases where this would otherwise have been difficult and (ii) impact in terms of 'policy dialogue with partner countries, as it provided the Commission with privileged access to national authorities and a platform for discussion' and with an opportunity to 'participate in numerous coordination committees and steering groups'.

- Cooperation was less successful when the UN organisations departed 'significantly from (their) area of expertise', pushed their own agenda 'to the detriment of that of the EU' and saw the Commission 'merely as a source of funds, essentially to finance their own operations'.
- The FAFA had proved a sound administrative framework for channelling funds and had facilitated EU-UN cooperation, though 'interpretation and application of certain provisions has proved contentious, creating difficulties at operational level' (ADE (2008a).
- The EU's visibility to the different stakeholders was generally preserved at partner country level, even though the EU's visibility provisions created difficulties at operational level. Compliance with EU visibility requirements varied from country to country and from project to project.

The main findings of two more recent special reports of the European Court of Auditors are in summary as follows[12]:

- By channelling funds through the UN, the Commission has delivered aid in areas which would otherwise have been very difficult to target.
- Activities funded had an overall positive impact and despite their challenging environment, 'the majority of the results achieved were assessed as having reasonable chances of sustainability' (2011). In case they were not realised, this was mostly attributed to weaknesses in project design (including unspecific objectives, weak interventions logic, missing indicators, absence of baseline data, unrealistic timeframes and an underestimation of risks.[13]
- Though the Commission was satisfied with its choice of UN partner, this choice was not based on sufficient evidence that this approach is more efficient and effective than other ways of delivering aid' (2009).[14]
- UN reports did not allow the Commission to obtain timely and adequate information on efficiency, results and impact.[15]
- In terms of efficiency, the Court observed that: (i) the Commission had limited information on the cost efficiency of implementation; (ii) there were instances of suboptimal cost-result relations and of high administrative costs (exceeding the 7% ceiling of the FAFA)[16] and (iii) that while the UN had demonstrated its capacity to deliver aid to beneficiaries rapidly there were also examples of slow delivery, partly because of unrealistic timeframes and underestimation of difficult circumstances in the countries (2011).[17]
- The Court had encountered difficulties to access information in the course of its annual financial audit of EU accounts. Moreover, the UN Panel of External Auditors had questioned the Commission's right

[12] The reports concerned are EU assistance implemented through United Nations organisations: Decision-making and monitoring (2009) and The efficiency and effectiveness of EU contributions channelled through United Nations organisations in conflict-affected countries (2011). The first report focused on the following two questions: (a) Does the process for deciding to implement aid through the UN demonstrate that this is the most efficient and effective option? (b) Do monitoring arrangements provide assurance on the robustness of financial procedures and on the achievement of objectives? The review is based on documentation, interviews, on the spot visits to Palestine and Sudan and a questionnaire. The second report assessed whether channelling EU aid through UN organisations was an effective, efficient and sustainable way of delivering aid in conflict affected countries. The review focused on Afghanistan, Iraq, Palestine, and Sudan; most common activities of the projects covered by the survey were de -mining, support to refugees, the preparation of elections, rehabilitation and capacity building.

[13] The Commission acknowledged the importance of project design but considered that only two of the 18 cases had weaknesses that could directly influence the project results' (2011). Moreover, adequately addressing issues like timeframes and baseline data were 'necessarily problematic' in a (post) conflict situation.

[14] In its reaction, the Commission announced that instructions had been sent to EuropeAid central services and EU Delegations to better and systematically document the rationale for working through the UN

[15] This was recognised by the Commission and revised reporting guidelines were agreed upon in 2010 and 2011.

[16] In its reaction, the Commission stated that it 'continually seeks to ensure sound financial management, even in difficult environments, in line with the Financial Regulation. Nevertheless, it is to be expected that costs may be higher in such environments'. Secondly, it contested the Court's position on 'high costs': 'The Commission does not consider that the costs are necessarily high in relation to what can reasonably be expected in conflict-affected countries' (2011). Moreover, 'cost comparisons are difficult in various countries, and are even more challenging in a conflict-affected environment. Cost categories may vary significantly between the regions of one single country and over time. (2011).

[17] According to the Commission, in (post) conflict countries, timeframes 'will necessarily be affected by events as they unfold and it may be necessary to revise plans and extend the timeframe to ensure satisfactory implementation' (2011). Delays were indeed experienced, by outside elements beyond the control of the partners' (2011).

to carry out financial checks. Nevertheless, the number of verification missions had increased over the years.[18]

EU aid and the World Bank

The Trust Funds and Co-Financing Agreement

To the Commission '(the) World Bank is a source of financial and technical assistance for developing countries, helping them to reduce poverty and funding programmes in areas such as education, health, infrastructure, communications and government reforms'. The Commission's aid delivery through the World Bank underwent significant change with the signing of the Trust Funds and co-financing framework Agreement in November 2001. This Agreement was revised in March 2003. A new Trust Funds and Co-financing Framework Agreement was signed in March 2009 with an initial term of 10 years. Among other things, the framework agreement defines the various types of eligible trust funds and sets out common principles and rules applicable to all of them. It also stipulates that for each trust fund to which the Commission contributes, an administration agreement is to be signed. The Agreement also regulates that for administering the funds, the World Bank will receive a management fee not exceeding 7%. Joint Visibility Guidelines were adopted in May 2009. Within the framework of the agreement, annual meetings are held between the Commission and the World Bank. This annual, formal dialogue known as the '*Limelette Agreement*' was put in place in 2003 (OECD (2007)).

Implementing EU – World Bank cooperation

The evaluation of Commission's aid delivery through development banks and EIB of 2008 indicates that between 1999 and 2005, the EU has channelled a total of EUR 2.8 billion through the World Bank (ADE (2008c)), including contributions both from the Budget and the EDF. This makes the EU one of the top five contributors to trust funds administered by the World Bank and the International Finance Corporation (IFC). Funds went to 69 Trust Funds (TF), with the seven largest contributions accounting for 84% of the payment:

- The Highly Indebted Poor Countries (HIPC) TF EUR 860 million (37%)
- Global Fund to Fight Aids, Tuberculosis and Malaria (GFATM) EUR 443 million (19%)
- West Bank and Gaza TF EUR 186 million (8%);
- Afghanistan Reconstruction TF EUR 139 million (6%);
- Iraq Reconstruction TF EUR 125 million (5%);
- Consultative Group on International Agricultural Research (CGIAR) (EUR 114 million (5%) and
- East Timor TF EUR 63 million (3%).

Out of the 194 trust funds managed by the World Bank in 2011, 30 received a contribution from both the Commission and the Netherlands (World Bank. (2011)).[19]

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[18] In its Annual Activity Report on 2010, EuropeAid summarized the main types of findings of the verification missions conducted with international organisations in 2010 (financial findings; management control findings and compliance issues. While '(some) positive results regarding access to documents was achieved in 7th FAFA Working Group in 2010, the Commission continues to insist on better access to information with partner international organisations' (Commission (2011r)).

[19] These were: African Program for Onchocerciasis Control Phase II; Comprehensive Africa Agriculture Development Programme; Forum for Agricultural Research in Africa; National Multi-Donor Trust Funds for North Sudan and Multi-Donor Trust Fund for Southern Sudan; Nile Basin Initiative Trust Fund; Terrafrica Leveraging Fund; Debt Relief Trust Fund; Basic Education Capacity Trust Fund; Java Reconstruction Program; Multi Donor Fund for ACEH and NIAS; Program for Community Empowerment (ID-PNP); Indonesia Support Public Financial Management Multidonor Trust Fund; Trust Fund for East Timor; Consultative Group to Assist the Poorest; Education For All-Fast Track Initiative; Pilot Program to Conserve the Brazilian Rain Forest; Iraq Reconstruction Trust Fund; Debt Reduction Facility; Strengthening Public Expenditure Management; Cities Alliance Program ; Commodity Risk Program; Consultative Group On International Consultative Research ; Extractive Industries Transparency Initiative ; Forest Carbon Partnership Facility ; Global Facility for Disaster Reduction & Recovery ; Program on Forests ; IFC Advisory Services in Europe and Central Asia; IFC Advisory Services in East Asia and the Pacific; Joint World Bank Group Investment Climate Advisory Service ; Global Index Insurance Facility.

Sector wise, 37% went for debt reduction and debt service, 27% for post conflict reconstruction and natural disaster relief, 21% for health and human development, 8% for environment and sustainable agriculture and the remaining 7% for social development and other areas.

Of the EUR 1,014 million going to ACP countries, EUR 797 million was for debt relief under HIPC, EUR 288 million for health and human development through GFATM and EUR 29 million through CGIAR for environment and sustainable agriculture. In the years 2007-2010, the contracted amounts through the World Bank within the framework of the EDF were some EUR 225 million (2007), EUR 80 million (2008), EUR 273 million (2009) and EUR 91 million in 2010.

The main findings of the 2008 evaluation were the following (ADE. (2008c)):

- First of all, EU aid through the World Bank was undertaken on a case-by-case basis rather a specific, documented Commission strategy, though a majority of individual decisions was 'nevertheless based on sound analyses, through joint donor assessment, prior documented analyses and – although less systematically – examination of alternatives'. The main reasons for channelling funds through the Bank were: (i) use of existing or internationally agreed mechanisms, where it was not realistic to envisage alternatives; (ii) compliance with an explicit demand from the country's authorities; (iii) benefits from specific World Bank expertise and/or the Bank's experience in the country/sector concerned
- Irrespective of the lack of strategy, EU aid though the World Bank brought added value in that it allowed the Commission: (i) to intervene in global initiatives or whenever direct cooperation was interrupted for one reason or another' and (ii) to promote its own policies and priorities, although this has not systematically been the case'. In this way, 'it could promote harmonisation and alignment', provide access to specific World Bank expertise and facilitated the absorption of EU aid money, particularly in post-crisis and emergency situations and for the HIPC initiative.
- The evaluation is positive about the realisation of tangible results for a majority of the TFs[20], especially as regard most EU 'contributions to (worldwide) global-level programmes'. Results were mixed for small or medium Commission contributions to WB TFs, particularly single-donor TFs', one reason being the variable disbursement rates to the beneficiaries. No clear picture emerged in terms of sustainability one reason since a large part of the funding concerned emergency or crisis situations for which the emphasis was on rapid action rather than sustainability'.

In terms of efficiency, the evaluation found the Framework Agreement useful for managing the operational dimension of the channelling of funds. In most cases, channelling funds through World Bank Trust Funds, had promoted 'efficiency in terms of aid delivery costs for the Commission and for beneficiaries overall'. Visibility of EU aid, like in the case of the UN, remained an issue,[21] as visibility guidelines were not clear to the Bank. Improvements on this were noted in more recent times following the agreement on the Joint Visibility Guidelines. Again similar to the case of the UN, the Commission has raised the issue of lateness of reports and insufficient focus of the reports on results and impact, requiring better dialogue between EU Delegations and World Bank country officers.

[20] Table 3.1 of the report provides a mish-mash of not entirely convincing outputs/results/impact ranging from 'reduction of African Development Bank debt level' and 'improved macro-economic policies' under HIPC, to 'economic development projects' and capacity building for officials under the Iraq Reconstruction TF and 'simplified procedures for Palestinian Authority'.

[21] The issue was also highlighted during several of the Annual Consultations between Commission and World Bank at which the Commission side emphasised the importance attached to a substantial improvement in its visibility in respect of Bank-administered trust funds and co-financing.

Annex 12: References

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